HOUSE OF REPRESENTATIVES—*Tuesday, August 4, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we walk the path of life, we are eternally grateful, O God, that Your spirit is with us to judge and forgive and nurture and to show the way. And as we see the heavenly vision of what can be and what should be, we are surrounded by friends and colleagues who encourage and support us in all the great moments of life. When we are alone or anxious about the way ahead, we are thankful that there are friends who lift us up and give us strength, and when we experience the fullness and the joys in living we are given assurance by the presence of our friends and our families. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas [Mr. NICHOLS] come forward and lead the House in the Pledge of Allegiance.

Mr. NICHOLS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. RAVENEL. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 1300.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 776. An act to provide for improved energy efficiency; and

H.R. 2152. An act to enhance the effectiveness of the United Nations international driftnet fishery conservation program.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 776) "An act to provide for improved energy efficiency" and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, Mr. WIRTH, Mr. CONRAD, Mr. SHELBY, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NICKLES, and Mr. BURNS, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment;

Mr. GLENN and Mr. STEVENS, for subtitle B of title VI of the Senate amendment (Federal energy management);

Mr. HOLLINGS and Mr. DANFORTH, for subtitles A, B, and C of title XII (Outer Continental Shelf revenue sharing) and section 19111 (pipeline safety issues) of the Senate amendment;

Mr. RIEGLE and Mr. GARN, for title XV of the Senate amendment (Public Utility Holding Company Act Reform);

Mr. BURDICK and Mr. CHAFEE, for the following provisions of H.R. 776, section 2481 (transshipment of plutonium), title XXVIII (nuclear plant licensing), subtitle A of title XXIX (below regulatory concern), and section 3009 (exemption from annual charges);

Mr. CRANSTON and Mr. SPECTER, for sections 6101 and 6102 (building energy efficiency) of title VI of the Senate amendment; and

Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. BREAUX, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE, for title XIX of H.R. 776 and title XX of the Senate amendment; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1569. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes;

S. 2087. An act to prohibit certain use of the terms "Visiting Nurse Association" "Visiting Nurse Service", "VNA", and "VNS"; and

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR TODAY

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today, Tuesday, August 4, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO SIT ON WEDNESDAY, AUGUST 5, 1992, DURING 5-MINUTE RULE

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on Wednesday, August 5, 1992, while the House is in session under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT, WEDNESDAY, AUGUST 5, 1992, TO FILE REPORT ON H.R. 5231, NATIONAL COMPETITIVENESS ACT OF 1992

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology may have until midnight, Wednesday, August 5, 1992, to file a late report on H.R. 5231, the National Competitiveness Act of 1992.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HEALTH CARE: THE UNAFFORDABLE BASIC NECESSITY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the soaring cost of health care is picking the pockets of working Americans. Health

care stands alone as the basic necessity that is eroding our workers' incomes.

In the last decade food, housing, and clothing costs have risen around 40 percent. Health care costs increased at more than twice that rate.

Escalating doctors' fees, hospital charges, and prescription drugs are scuttling the American dream. College educations, home ownership, and retirements have been victimized by spiraling medical inflation.

Clearly, cost containment is the key to health care reform. We know this and so do the American people. The only ones who disagree are the healthy and the wealthy.

Unless we act now, health care will become the basic necessity working Americans cannot afford.

MARCUS CICERO ON A BALANCED BUDGET

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, I would like to quote the Roman philosopher and statesman Marcus Cicero who offered these words many years before Christ:

> The budget should be balanced. The treasury should be filled. Public debts should be reduced. The arrogance of officialdom should be tempered and controlled.

Today, these words of wisdom still ring true.

This Nation is facing another astronomical fiscal year deficit.

Our total Federal deficit is quickly approaching $4 trillion.

And an arrogant Congress does not act to mend the economic woes which confront this Nation. It is still business as usual in this House—spend, spend, spend.

Mr. Speaker, we cannot afford to continue down this road of fiscal irresponsibility.

We must have the courage to make the tough decisions, to cut out unnecessary Federal spending, to stop the exponential growth of the Government, and to reclaim the Congress for the American people.

TRUST ME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, in the movie "Blaze" a mother tells her young daughter living on 12 Pole Creek, "Never trust a man who says 'trust me.'"

That is why I look with interest upon President Bush's campaign slogan, "Trust me."

"Trust me" when we talk about economic performance, the worst economic performance at any time since World War II.

The President says "trust me" when it comes to job growth. He created the worst job growth performance record at any time in the last 20 years.

"Trust me" when it comes to economic stimulation, and yet he offers only a capital gains tax cut for the wealthy while the middle income steadily loses ground.

"Trust me," the President says. Well, on 12 Pole Creek if you drive up with a bumper sticker that says, "Trust me," they look a little bit askance. That is good advice for this election, too.

EQUAL TREATMENT FOR FLORIDA

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the move is on—8 of the 10 fastest growing metro areas are in Florida. The statistics continue to grow, and so does Florida's struggle for fair treatment. The Sunshine State remains the mother of all provider States at the bottom of the list in return on its tax dollar—56th out of 56 in some cases, behind all the States as well as Guam, the Virgin Islands, American Samoa, Puerto Rico, and the District of Columbia. Floridians are additionally left with the daunting costs of providing extra social services for winter residents—or snowbirds—and immigrants. Attempts by our State delegation to secure a fair share of Federal resources for transportation, education, and other social services have met with resistance. When the 1990 census arrived, many believed that relief for Florida, and all growth States, would follow. But the odds are still stacked against us, as undercount figures have remained the figures of choice in devising new formulas.

Mr. Speaker, we now read that statistical corrections may yet be used for undercounted States. That is great news for my district which has the first and third fastest growing metropolitan areas in the country. We need fairer formulas, we need equal treatment for all growth States.

□ 1210

WHAT IS REALLY TEARING DOWN AMERICA?

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, yesterday President Bush said that the Clinton-Gore ticket was "tearing down America." It seems to me the White House is simply hyperventilating again.

What is tearing down America is the economic policy of the Bush administration. White House economic policy has produced the slowest economic growth of any postwar Presidential term. White House economic policy has produced the smallest job creation under any U.S. President since the end of World War II.

Mr. Speaker, those of us in Congress can debate economic policy with the White House, but the historical fact is very simple: No Congress since World War II has been able to change any President's budget by more than 3 percent. That stark fact demonstrates that the economic direction of this country simply will not change until we have a new President who does understand the true problems facing the economy in the post-cold war era.

AMERICAN COMPANY MAKES INROADS INTO JAPANESE CONSUMER ELECTRONICS INDUSTRY

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1-minute today, this Member would like to discuss how an American company is making inroads into the Japanese consumer electronics industry.

Mr. Speaker, in a short period of time Japanese consumer electronic producers have devastated the American consumer electronics industry by reverse engineering American inventions such as the video camera and the fax machine.

These Japanese companies like Sony have perfected the process of taking a new technology and developing a cheaper and better way to make the technology available to consumers.

Now, Mr. Speaker, these companies are the new leaders in consumer electronics technology like digital cassettes and high definition television. And, now, according to a July 22, 1992 article in the Journal of Commerce, Japanese companies have invented the extremely important new technology of flash chips.

Flash chips may revolutionize the portable computer industry, but surprisingly, American semiconductor producers may dominate the market for these chips. This surprising turnaround is primarily the result of an American firm, Intel Corp., which learned from the Japanese the importance of reverse engineering. We must assure that their lead is not stolen by unfair trade or industrial practices.

Mr. Speaker, as MIT economist Lester Thurow says in his important new book "Head to Head":

> [t]he moral of the story is clear. Those who can make a product cheaper can take it away from the inventor. In today's world it does very little good to invent a new product if the inventor is not the cheapest producer of that product.

PRESIDENT BUSH AND THE CHARACTER ISSUE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the leading economic indicators are down, the economy is grinding to a halt, and every time the Government records the economic slide, the Bush campaign dives into the sleaze. But what is the President's reaction?

First, blame. Blame the Congress, the credit crunch, the Federal Reserve, our allies, and Saddam Hussein, and fail to take personal responsibility for his own mismanagement of the economy.

Second, wave the veto pen; this time, toward the Senate, because its urban aid bill helps the cities and the underclass without giving a capital gains tax cut for the rich, although it contains six of the seven proposals he asked for in his State of the Union speech.

And, third, distract. Pummel his opponent's health care cost containment proposal, using that old assault, "socialized medicine," to cover up the President's unwillingness to confront the health care profiteers.

This record of blaming, vetoing legislation, and distracting the debate, is not helping America, is not helping the Bush campaign, and it really is not Presidential.

Mr. Speaker the character issue looming over President Bush is this: Will he take responsibility for the mistakes of his administration and his Presidential campaign, and exercise real leadership to reverse our country's declining economic fortunes?

TRIBUTE TO NEW ORLEANS COUNCIL OF BOY SCOUTS OF AMERICA

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, in keeping with our offering of the Pledge of Allegiance a few moments ago, this August marks the centennial of the Pledge of Allegiance. On the 22d of that month, the Boy Scouts of America New Orleans Council will lead a national celebration of its 100th birthday. During the halftime show of the New Orleans Saints and Houston Oilers football game in the Louisiana Superdome, they will lead a salute to the pledge. The New Orleans Area Council's vast membership includes nearly 25,000 boys and 5,000 volunteer leaders. I would like to commend the patriotism of these young men as well as recognize their initiative in leading the commemoration of this historic event.

CALIFORNIA, FIRST STATE TO GO BANKRUPT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, supply-side suffering has finally trickled down in California; $11 billion budget deficit, the first State to go bankrupt.

Things are so bad in California, the politicians are rummaging through the budget debris trying to find the black box.

Aerospace plants have shut down, housing sales have dropped. The only people working are firefighters. California banks will not even accept the State's IOU's. In fact, the bankers feel so low they could walk underneath a closed door with their top hats on, folks.

But the President said, "Don't worry. I have a new two-phased program. Phase I, trust me; phase II, dial 9–1–1."

THE ECONOMY IS STRUGGLING DUE TO OVERREGULATION

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the people of this Nation are angry today, especially at their Federal Government, and I do not blame them. The Federal Government has overspent and overregulated to such an extent that our economy is really struggling today. The blame for this is being placed on people in politics, and the President is being blamed for everything in the world. However, I would respectfully submit that the blame is being misplaced.

The Federal bureaucracy is so insulated and so protected that no one can control it, not even the President. For years we have been told to take the politics out of everything, and we have left so little under political control today that the people have just about lost control of their own Government.

If the people really want the economy to boom again, we have got to decrease our national debt and do away with thousands of Federal rules and regulations. We are adding a billion dollars a day to our debt, and we added 67,000 pages of fine-print Federal regulation last year alone. So we are still heading in exactly the wrong direction.

Mr. Speaker, we do not need more big Government liberalism. If we really want to change, the surest and best way is to greatly reduce the number and power of Federal regulators.

UNIFORM PROTECTION OF REPRODUCTIVE RIGHTS ACT OF 1992

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I rise today to indroduce legislation, the Uniform Protection of Reproductive Rights Act of 1992. Like so many others in this body and around our Nation I have struggled long and hard with the difficult and vexing issue of abortion. Like many of you, I believe strongly both in a woman's right to control her reproductive destiny as well as in the importance of upholding the sanctity and value of human life. The challenge, of course, is how to fairly balance these two important and sometimes mutually competing interests.

As I have watched and participated in the ongoing social debate on this issue, I have been distressed that what I perceive as two extreme positions have dominated the debate. On the one hand, there are those who would entirely strip women of the right to choose in all except the most extreme cases and on the other hand there are those who believe that the fetus has no rights whatsoever until 6 months of pregnancy or beyond. I believe that neither of these positions strikes the correct balance and if the polls are to be believed, the overwhelming majority of the American people agree with me.

The American people, with their instinctive fairness and good judgment, know that, as difficult as this issue is, we must nonetheless, in a pluralistic society like ours, seek out the common ground for even the most intractable and vexing of problems. That is what I sought to do in the legislation I offer today. The Uniform Protection of Reproduction Rights Act of 1992 would protect a woman's unrestricted right to have an abortion through 12 weeks of fetal gestation. After that time, abortion would still be permissible in cases of rape or incest, threat to the life or health of the mother, and in cases of severe fetal deformity. I sincerely believe that an approach such as the one I propose today offers a new path through the division and confrontation that has beset our society on the question of abortion and I urge my colleagues to give it their consideration.

CONGRESS OUGHT TO BE TRYING TO SOLVE PROBLEMS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is the first Presidential election that has occurred since I have been a Member of Congress. I have to tell you that I am pretty disappointed in the way that Congress behaved during this period of time. I am pretty tired of the posturing that goes on here day after day; everybody rises and carries on a political conversation.

Mr. Speaker, we ought to be doing something. We came here to solve problems. The Democrats get up and accuse the President of missing everything, the Republicans are trying to accuse the Democrats.

Mr. Speaker, we really ought to be trying to solve some problems. I came here to do that. We ought to be talking about the economy. Let us do something about it. We spend a lot of time talking about the deficit. Why do we not do something about it? Everybody says, "We don't need a constitutional amendment. We'll fix it." Where is it?

□ 1220

We talked a little bit here about health care, we complain about health care, criticize the President about health care, and I say, "Let's do something about it."

Mr. Speaker, it is time the Congress did something besides posture themselves during this Presidential election. This is not a political rally. Let us solve some of the problems we came here to resolve.

THE LAND OF THE FREE AND THE HOME OF THE BRAVES

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, every major league baseball game starts off with a glorious rendition of the Star Spangled Banner, our national anthem. "Oh Say Can You See. * * *" Unfortunately, somebody is trying to change that line to "Oh, No, You Cannot See. * * *"

Somebody is trying to black out televised baseball games of the Atlanta Braves.

That is not right. That is not baseball, hot dogs, and apple pie. That is just plain not American.

Mr. Speaker, I plan to talk more about this issue during our Special Orders.

But for now, let me speak for the small towns and rural areas of Alabama, the Southeast and people all across America that Congress has a responsibility to keep this the land of the free, and the home of the Braves.

PLAY OR PAY HEALTH CARE PLAN: A THREAT TO AMERICAN JOBS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the American public needs to be warned about Gov. Bill Clinton's health care reform plan.

Under Governor Clinton's play-or-pay plan, employers would be required to provide health insurance for all their employees. If employers fail to do so, they would be forced to pay a payroll tax to enroll their employees in a public health insurance plan.

This plan should be called play or pay and pay and pay, because the American worker is going to pay dearly for it.

Studies show this approach would put 9 million American jobs at risk.

Mandating employers to provide health insurance in the current market is only mandating bankruptcies.

But most importantly, his plan doesn't cover indigents and people who are not working. It also ignores retired senior citizens who are just trying to get by and have serious concerns about health care. The play-or-pay plan doesn't even touch them and is not a universal solution to our health care crisis.

No, Mr. Speaker, what we need is a health care strategy that provides both accessibility and affordability for all. And without cost containment measures, any health care plan will be doomed to fail.

INSTEAD OF JUST TALKING ABOUT FAMILY VALUES, LET'S DO SOMETHING ABOUT THEM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, family values; that has become the catchword of the political season. It has also been the object of catcalls.

Now family values are too important to be treated glibly or rhetorically. They are also not the worthy object of scorn for somehow being out of fashion or even old-fashioned.

Mr. Speaker, today we have a chance to really do something about family values. We can adopt and pass the Child Support Recovery Act which makes it more difficult for parents to skip on court-ordered support payments which they are required to pay, and tomorrow we can pass the Family Preservation Act which changes welfare programs to keep families together and to eliminate or lessen the need to have foster care. It also enhances adoption assistance. In addition, we can pass the Child Hunger Relief Act, which would allow improving changes to be made in the Food Stamp Program and the Emergency Food Aid Program.

But again, Mr. Speaker, instead of just talking about family values, today and tomorrow this Congress can do something about family values.

LEADERSHIP OF SECRETARY OF STATE BAKER IN THE CAUSE OF HUMAN RIGHTS AND DEMOCRACY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. During this election year, Mr. Speaker, this administration has taken a lot of heat on a number of issues, and I have taken my own potshots at the administration for some of their foreign policy decisions, but today I would like to compliment Secretary of State Jim Baker, for, not only his speech, but a positive policy stand on human rights concerning the country of Burma.

Recently, Jim Baker went and spoke in front of a gathering of ASEAN, which is a group of Asian nations, Southeast Asian nations, including Malaysia, including Indonesia, including Singapore and the countries in that area, Thailand, and Jim Baker took a very tough stand on democracy in Burma. He did exactly what we expect of our leaders and our representatives. He told the ASEAN nations that the United States would be working toward democracy and freedom in Burma and that all good and decent people in that area should work together to bring freedom to these people that have been plagued with one of the worst tyrannies in the world today. Unfortunately the reaction of the ASEAN country friends, or allies, was less than favorable to Secretary of State Baker's remarks.

Let us work together with our friends and allies to promote democracy in Burma and elsewhere, and let us applaud our country and our leaders, like Secretary of State Baker, when they stand for American leadership in the cause of human rights and democracy.

BRING THE TROOPS HOME

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, we have troops in Kuwait again, about 2,000 of them, going up to 4,000, and these troops should not be in Kuwait. And why are they there? Because President Bush has been embarrassed. He failed the first time to get Saddam Hussein, and now Saddam Hussein has called the shots on inspection, and they rejected having the American inspectors go into that agriculture department.

Same situation in Panama. When the rebels took Noriega, the Bush administration refused to take them off their hands, turned around and sent the troops in.

It cost us 26 young Americans' lives, and Noriega is still alive on the taxpayers' dole.

The United Nations should make the decisions on this, not unilaterally by the United States. We should do it by strategic bombing, by going after him.

President Bush says that he will not aim for him, so I ask, "If you're not going to aim for him, who are you going to aim for?"

Mr. Speaker, we do not want to hit the Iraqi people. They did not do anything wrong.

Bring the troops home.

CREATIVE RHETORIC BUT NOT CREATIVE SOLUTIONS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, creative rhetoric, but not creative solutions; that is what we have been offered by the Clinton-Gore ticket. We have heard a number of speeches given over the past several weeks. When Mr. Clinton spoke in San Diego, he talked about the broken record that the Republican offer of liberal, liberal, liberal; tax and spend, tax and spend, tax and spend. That is great rhetoric, but when it came to a meeting he was attending with some young students, he was confronted with, "What are you going to do to deal with the problems of the inner cities? What are you going to do with the problem of education?"

Mr. Speaker, candidate Clinton's response was, "Spend more money, spend more money, spend more money."

The fact of the matter is the only creative solutions which he has supported are those which we, President Bush, the Republicans and Congress, have offered. I hope the American people get that message loudly and clearly.

WE SHOULD NOT LIMIT ACCESS TO BASEBALL

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, during the last century, there have been many changes in the world. We have experienced world wars, depressions, recessions, natural disasters, riots in our cities, political scandals, and the unsuspected fall of governments throughout the world. But, to paraphrase W.P. Kinsella from one of his many books about baseball, there has always been one constant, one thing that we could always count on to bring us together—baseball.

Most Americans, Mr. Speaker, have watched major league baseball on one of the so-called superstations.

□ 1230

These stations have given Americans all over the world access to baseball, some who would not normally have those privileges. Because these stations have paid millions of dollars to major league baseball and taken the necessary technological steps to make their program schedule blackout proof, millions of common, hard-working Americans with cable access have been able to watch baseball on a regular basis.

Now major league baseball is seeking legislation which will ultimately black out up to 500 baseball games around the country. The logic of this escapes me. The superstations have done more to promote the welfare of baseball than any other phenomena of the past 15 years. Limiting access to these games, Mr. Speaker, will only mean that people will lose interest in the game and deprive themselves of one of the great pleasures of life.

Mr. Speaker, today I am joining my colleague, the gentleman from Alabama, in introducing legislation to stop it and take this idea whose time has not come away from the consideration of the Congress.

THREAT OF NEW TAXES RAISES QUESTION—CAN AMERICA AFFORD THE DEMOCRATIC TICKET

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, it is clear from looking at the policy proposals of the Democrats that America cannot afford the Democratic ticket.

The Democratic ticket has proposed $150 billion in tax increases. New research indicates the Democratic ticket would favor a tax increase in gasoline, a tax increase on heating oil, a tax increase on natural gas, a tax increase on electricity, and a tax increase on coal. Some of those tax increases would go to give $50 billion to the big city Democratic machines and their unionized bureaucracies.

Further research indicates the Democratic ticket would favor a 700-percent increase in foreign aid spending to $100 billion a year. America simply cannot afford the Democratic ticket.

TIME FOR UNITED STATES INTERVENTION IN YUGOSLAVIA

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, no one wants more than I that we turn our attentions to problems at home, but we cannot turn our backs on dire events overseas. The headlines of today say, "U.S. Verifies Killings in Serb Camps." Another one says, "Bosnian Refugees Recount Atrocities in Prison Camps."

The stories differ in details, but the outlines of their stories coincide with chilling clarity. These Croatian and Moslem refugees speak of being held in detention camps where they witnessed beatings and shootings of prisoners by masked Serbian guards.

Mr. Speaker, it is time for action. It is time for a full-scale fact-finding commission. An intensification of the boycott and further intervention is necessary.

Yesterday a United States Representative was quoted as saying, "They condemn torture and killings in Serbian detention camps, but a State Department spokesman refused to discuss the possibility that the latest abuses could lead to Western military intervention in Yugoslavia."

Mr. Speaker, rhetoric will not save innocent souls. We have learned that in the past. It is time for the United States to act.

ECONOMIC CHANGES NEEDED IN RURAL AMERICA

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the last Republican who spoke was inventive but hardly factual on the subject of foreign aid. He knows and the American people ought to know that the President is proposing to veto the Foreign Aid Bill passed by Congress because he says it does not contain enough money for foreign aid. So that is where the priority is for foreign aid, on that side of the aisle, down at this White House by Republicans who want to spend all the money overseas and do not want to take care of things here at home.

Yesterday, in my State of North Dakota, Agriculture Secretary Madigan dropped by. We are real popular these days. That is the second Cabinet Secretary in 2 weeks, both of them stopping to campaign for President Bush.

Here is what Mr. Madigan said: "Family farmers have never had it so good."

I wish the Cabinet Secretary would stop and look and listen for a while. There is no looting, no rioting, and no burning on the streets of rural America, but there is enormous despair because the policies of this administration have failed in rural America. We need change in rural America, and we need it soon. We do not need Cabinet Secretaries out there campaigning; we need Cabinet Secretaries coming to rural America to take a look at how policies work and propose real constructive changes to make life better for people who live in rural America.

ALLEGED PROPOSALS FOR INCREASED FOREIGN AID SPENDING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we hear a lot of interesting discussions on this floor about how there should be more concentration on the needs of rural America and urban America, you name

it, and these are things which are of domestic concern. That is absolutely the case. We do need to focus on the needs of our country right now.

The question for many of us now is how the new Democratic ticket, that is, the Clinton-Gore ticket, plans to do that when one of the things they are calling for is $100 billion a year to be spent on foreign aid.

Right now we spend something in the range of $10 to $12 billion on foreign aid. This would be a sevenfold increase in the amount of money being spent on foreign aid, and yet the Democratic ticket has advanced that as an idea that they think should be considered.

I would suggest that an administration that is prepared to spend $100 billion on foreign aid probably is not going to be able to meet these concerns.

Mr. DORGAN of North Dakota. Mr. Speaker, if the gentleman will yield, will the gentleman give us his source for this $100 billion?

Mr. WALKER. Sure. AL GORE's book.

Mr. DORGAN of North Dakota. And you say he is proposing that?

Mr. WALKER. It is from AL GORE's book.

Mr. DORGAN of North Dakota. That is not true. That is simply not true.

THE "CHILDREN'S INITIATIVE"

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, obviously this is the year when there is a tremendous emphasis on the importance of family values, but I believe the most fundamental family value is to protect our children, to care for them, to protect them, to feed them.

How can we talk about family values in this country when there are 1.5 million children in our society who are at risk in hunger? How can we talk about family values when there are 5 million children who each day go hungry in the United States of America, and how can we talk about family values when there are 2.7 million children who are abused or neglected?

The main challenge is to deal with those children in our society.

There is an initiative that will hopefully come before the House this week. The "Children's Initiative," H.R. 5600, is an effort not just to talk about family values but to do something about it, to try to keep families together, to prevent child abuse, and to prevent childhood hunger.

The time has come not just to talk about family values but to do something about it.

Mr. Speaker, I rise today to let the House know that a very important opportunity will be afforded to all Members on the floor this Thursday. There is a great deal of political emphasis this year on family values. The most fundamental family value is to protect our children. This week, each of my colleagues will have the opportunity to make a tremendous impact in helping families and children in our society. What investment could possibly be more important, more urgent and more timely than efforts to keep families together, to prevent child abuse, and to prevent childhood hunger? That is what the Children's Initiative, H.R. 5600, is all about.

This is breakthrough legislation: Legislation that addresses the 12.5 million hungry and at-risk children in this country; legislation that deals with the basic protection of the nearly 2.7 million children reported abused or neglected in 1991. Mr. Speaker, this bill does not just talk about family values, it invests in America's families and children.

This legislation will affect millions and millions of the most needy and most vulnerable in society. This bill shames the rhetoricians because we take action, and we have found a way to pay for the bill. The financing mechanism, a surtax on the richest one-tenth of 1 percent of the Nation, will raise enough money to pay for both pared-down versions of the Family Preservation Act and the Mickey Leland bill which comprise the Children's Initiative, and it will also decrease the deficit by $1.2 billion over 5 years.

This bill is sound social and fiscal policy. Here is your chance to help right now. I urge your strong support of this pro-family measure when it comes to the floor for consideration this Thursday. Don't just talk about it. Let's do it.

SUPPORT URGED FOR BILL TO PHASE OUT OCCUPATIONAL TAX ON THE LIQUOR INDUSTRY

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I rise today to urge support of H.R. 5649 which was brought up under suspension yesterday. I was unable to speak during the debate, but am taking this opportunity to voice my strong support of this legislation. This bill would phase out the occupational tax on the liquor industry. As the Member of Congress who represents, perhaps, the most recognized wine producing region in the country, I urge my colleagues to support in easing the burden of an industry which has been hard hit by drought and pestilence. The special occupational tax serves as another levy on an already overtaxed industry. In 1987, with no hearings, the tax was increased from $110 to $1,000 per year. The 1,000-percent increase has fallen exceptionally hard on the family owned and operated wineries that I represent. We should be doing everything we can to ease the burden on these small businesses not adding to it. I urge all Members to support the phasing out of this unfair tax burden by supporting H.R. 5649.

LOAN GUARANTEES FOR ISRAEL

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I am very encouraged by recent news reports that the United States and Israel are close to reaching agreement on loan guarantees to facilitate the resettlement of Jews from the former Soviet Union.

As Americans, we take pride in our country's recently successful effort to secure emigration opportunities for Jews facing the threat of anti-Semitism. The lowering of exit barriers, however, must mark only a beginning of our involvement in a great human rights endeavor. The task of integrating potentially over a million men, women, and children into the life of a small nation poses monumental challenges. The economy of Israel must be transformed to provide meaningful employment opportunities in new and expanded industries. Immigrant families must be sheltered—requiring substantial housing construction in Israel in the years ahead.

Israelis, to their credit, do not seek large sums in immigration-related grants and loans from the United States but rather request our assistance in facilitating their access to credit markets. Loan guarantees will enable Israel to obtain financing at reasonable cost without burdening our own taxpayers.

Americans support Israel's commitment to providing a haven for Jews from former Soviet lands. Loan guarantees provide a tangible cost-free way for the United States to extend a helping hand at a critical time in Israel's history.

I am hopeful that a resolution of the impasse over loan guarantees can be announced during Prime Minister Rabin's forthcoming visit to the United States. Prime Minister Rabin is to be commended for his commitment to the peace process and for his constructive approach to the issue of settlements in the occupied territories. As Israel embraces policies encouraging negotiation and compromise, the United States has every reason to participate actively in helping Israel achieve its domestic goal of successful immigrant absorption.

□ 1240

PROVIDING FOR DISPOSITION OF SENATE AMENDMENT TO H.R. 2977, PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 535 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 535

Resolved, That upon adoption of this resolution it shall be in order to consider a mo-

tion to take from the Speaker's table the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment. The motion shall be debatable for not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 535 makes it in order to move to take H.R. 2977 from the Speaker's table with the Senate amendment and concur in the Senate amendment. The motion is to be debatable for up to 1 hour and the debate is equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

Mr. Speaker, House Resolution 535 provides a procedural mechanism to speed up the final consideration of the Public Telecommunications Act of 1992. It permits the House to move to adopt the Senate amendments and send the bill to the President without having to go to conference. The House passed this bill last November under suspension of the rules and the Senate recently passed it, with amendments, by a vote of 84 to 11.

Briefly, this bill authorizes a modest increase in funding for the next 3 years for public broadcasting. It also contains provisions to improve the efficiency and the accountability of the board; increase public broadcasting services to underserved audiences—including the visually and hearing impaired; prohibit the broadcasting of indecent programming; and promote affordable training programs for employees at public broadcast stations.

Mr. Speaker, the public broadcasting system provides many educational and cultural benefits to the American people. Its mission, which began 23 years ago, has more than fulfilled its promise to promote education, community awareness and technological innovation. I urge passage of the rule and the bill so that we may continue to fulfill our long-standing commitment to national public radio and television.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee, Mr. MOAKLEY, has fully explained the provisions of this rule.

This is important legislation whose purpose is to authorize appropriations for public broadcasting. The Corporation for Public Broadcasting is currently authorized through fiscal year 1993 under 2-year advance reauthorizations. This legislation would reauthorize the Corporation for fiscal years 1994 through 1996.

Mr. Speaker, the Government provides public broadcasting with about 17 percent of its total funding, and the remainder comes from State and local governments, corporate underwriting, individual contributions, colleges, and other sources. In addition to providing funding for Corporation for Public Broadcasting Program activities, the bill would authorize $42 million for each of the 3 years for capital investments in public television and radio facilities. It would also make changes to the Board of Directors, reducing the number of from 10 to 9 to avoid tie votes. Board members' would be staggered so that three terms expire every 3 years.

Mr. Speaker, the Senate made a number of changes to our bill. In lieu of going to conference, the rule provides that the House will vote on a motion to concur in the Senate amendment and pass the bill. I urge the adoption of the rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON SITUATION IN SARAJEVO

(Mr. MURTHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURTHA. Mr. Speaker, I would like to give the House a report of my trip to Sarajevo over the weekend. I left at 2 o'clock on Friday and flew into Rhein Main and then got on a C–130 and flew into Sarajevo.

The fighting the day before was intense. When I got there it had let up, even though you could hear mortar rounds and sniper fire in the distance. As a matter of fact, the bus holding the children that was attacked the day we were there went by us, and they inadvertently, or on purpose, hit these small children.

The important point about what is going on is that they can close the airport at any time. It would be impossible for us to keep it open without a substantial force. As a matter of fact, I think any possibility of military intervention on a small scale would be counterproductive.

The hills around Sarajevo remind me of Beirut. It is not like the desert where it is open. Our particular weapons which are so effective in an open territory would be almost impossible for us to get to positions that are covered by foliage and that are hidden in the area.

The United Nations is doing a phenomenal job in feeding the people. We have just enough airplanes going in every day to feed the people there. As a matter of fact, they have 3 days supply of food in Sarajevo, which is only a minor part of the overall refugee problem.

I am convinced that we have to allow the European Community to take the lead, that we have to do it under the United Nations, and any unilateral action by the United States would be a mistake. For us to intervene militarily would take massive U.S. forces, and my recommendation to the President would be to let the Europeans handle it and to let this thing be settled under the United Nations.

Mr. Speaker, it is a tragic situation. All of us feel badly about it. I visited a refugee center where an old fellow, 83 years old, said he was a child in World War I, and that was terrible; he was in World War II and it was a tragic situation; and this is worse.

They are forcing people out of their homes. You can see the houses that have been destroyed by the mortar and artillery fire. Of course, there are no windows in any of the homes surrounding the airport at Sarajevo, and I assume that is true of any place that has been attacked in Bosnia.

We have got a real problem facing us with winter coming on, with nobody having any opportunity to be warm at all. Of course, the weather would keep food from being distributed.

So I can only say that it is a tough situation, but the Europeans have to take more of a lead, and, of course, the United Nations has to advise us on what we should do. But I certainly would be against any massive military intervention by the United States in that area.

□ 1250

TELECOMMUNICATIONS ACT OF 1992

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 535, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to take from the Speaker's table the bill H.R 2977, to authorize appropriations for public broadcasting, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 535, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from New

Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes. Mr. Speaker, I rise in support of the motion to concur in the Senate amendment to H.R. 2977, and to urge my colleagues to do likewise. Although I have reservations about several of the provisions added by the Senate, which I will address later, on balance I believe that the amendments should be accepted by this body so that the legislation can proceed to the President for his signature.

I should note that our colleague, the Honorable ED MARKEY, the able chairman of the committee's Subcommittee on Telecommunications and Finance, is unable to be with us today. I ask unanimous consent that his statement be inserted into the RECORD at this point, and very much regret his absence.

Mr. Speaker, last November, the House passed its version of H.R. 2977, authorizing appropriations for the Corporation for Public Broadcasting, and for other purposes. CPB is the private corporation that was created by the Congress to implement the provisions of the Public Broadcasting Act more than 20 years ago.

By any measure, CBP has done a magnificent job. Today, public television and radio bring programming material to millions of Americans—from educational programming for children to news and public affairs programming. Both public television and public radio add to the diversity of programming that is available to the American people, and help to ensure that all Americans have access to high quality, informative programming that otherwise would not be available to them.

As amended by the Senate, H.R. 2977 authorizes $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996. While ultimately it may not be possible for Congress to provide funds at these levels, in my view these figures represent responsible authorization levels. Both public television and radio are partners in our national effort to improve America's education. Public broadcasting has the potential to contribute much more—but only if adequate resources are made available.

I would like to address several of the amendments that were added to H.R. 2977 by the other body.

The first is the so-called objectivity and balance amendment that was a manager's amendment offered by the chairman of the Senate's Communications Subcommittee, Senator INOUYE. Although the amendment mandates new procedural requirements, it most certainly does not establish new policy. Recipients of Federal funds for public broadcasting have always been held accountable for the funds that they receive; this provision does not change that requirement in any manner. Specifically, the amendment does not expand the Corporation's authority with regard to objectivity and balance as that authority has been interpreted by the courts, including the U.S Court of Appeals for the District of Columbia Circuit in *Accuracy in Media, Inc*, v. *FCC.*, 521 F. 2d 288, (D.C. Cir. 1975), cert, denied, 425 U.S. 934 (1976).

Rather, the amendment requires CPB to establish new procedures that will facilitate public broadcasting's accountability to Congress and to the American people. The amendment requires that Corporation to review its current efforts to meet the responsibilities outlined in section 396(g)(1)(A) of the Communications Act—including adherence to objectivity and balance in programs of a controversial nature—to solicit the views of the public on the services provided by public broadcasters, and to review national programming to determine whether it meets congressional mandates. On the basis of the information gathered above, it can act to address any discovered imbalances or unmet needs through program grants made pursuant to clauses (ii)(II), (iii)(II), and (iii)(III) of section 396(k)(3)(A) of the act and through dissemination of information on identified concerns throughout the public broadcasting system.

Moreover, the terms of this amendment do not have any bearing on the Corporation's awarding of community service grants to public television and radio stations pursuant to clauses (ii)(I) and (iii)(I) of section 396(k)(3)(A) of the Communications Act. This amendment neither enhances nor diminishes the Corporation's existing authority with respect to its awarding of CSG's to public television and radio stations.

While the amendment refers to national program production and acquisition grants [NPPAG's], it does not authorize the Corporation to impose restrictions or conditions on the use or expenditure of NPPAG grants different from the types it currently imposes. For example, CPB cannot tell a public station what programming it must produce or acquire; it cannot require that stations pool funds at the national level for the production of programming that the Corporation's Board determines should be produced: it cannot require that, as a condition for receiving the NPPAG grant, the station provide a particular program or type of program, and most importantly, it cannot require that a station broadcast any program or prohibit the broadcast of any program.

Rather, the Corporation may provide information, engage in discussions with stations, and advise stations, based on the Board's review of national public broadcasting programming and its analysis of public comment, as to areas of national programming that stations may consider for special emphasis.

Neither Congress nor CPB can substitute their own judgment for that of local radio and television licensees who must ultimately decide on the mix of programming that best meets the needs and interests of the communities. Those licensees are held accountable by the Federal Communications Commission during the course of renewing their licenses, and nothing in this amendment should be permitted to interfere with the discretion of those licensees as they discharge their obligations and responsibilities to the communities they were licensed to serve.

The second Senate-passed amendment that I would like to address is the so-called Byrd amendment. This amendment, which was added to the bill on the Senate floor by an overwhelming majority, prohibits indecent programming on most commercial and public radio and television stations between the hours of 6 a.m. and 12 midnight.

Now I understand the sentiments that led to the adoption of this amendment. Some of the stuff that is on commercial radio is, quite simply, appalling. Much of the material that appears on television is no better. I wish we had at our disposal a constitutional mechanism that would protect our children from programming material of this type.

But the Byrd amendment is clearly unconstitutional. The courts have spoken. The adoption of this amendment simply repeats the action of the Congress in 1988, when the Helms amendment was added to an appropriations bill. That amendment, which imposed a 24-hour-a-day ban on indecent speech, was overturned by the court in *Action for Children's Television* v. *FCC.*, 932 F.2d 1504 (D.C. Cir. 1991) cert. denied, 112 S. Ct. 1281 (1992). I insert the entire text of this decision into the RECORD at this point.

[U.S. Court of Appeals for the District of Columbia Circuit, No. 88-1916]

ACTION FOR CHILDREN'S TELEVISION, *et al.*, PETITIONERS v. FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA, RESPONDENTS; CHILDREN'S LEGAL FOUNDATION, *et al.*, INTERVENORS

Argued January 28, 1991.
Decided May 17, 1991.

Timothy B. Dyk for Capital Cities/ABC, Inc., and CBS, Inc., with whom Henry Geller and Donna Lampert, for Action for Children's Television, John A. Powell and C. Edwin Baker, for American Civil Liberties Union, James Popham, for Association of Independent Television Stations, Inc., Steven A. Lerman, Dennis P. Corbett and Laura B. Humphries, for Infinity Broadcasting Corporation, Fritz E. Attaway, for Motion Picture Association of America, Inc., Henry L. Baumann and Stephen A. Bookshester, for National Association of Broadcasters, Howard Monderer, for National Broadcasting Company, Inc., Theodore A. Miles and Karen

Christensen, for National Public Radio, Andrew Jay Schwartzman and Jan G. Levine, for People for the American Way, Jonathan D. Blake, for Post-Newsweek Stations. Inc., Paula A. Jameson and Nancy H. Hendry, for Public Broadcasting Service, J. Laurent Scharff, for Radio-Television News Directors Association, Jane E. Kirtley, for The Reporters Committee for Freedom of the Press, and Bruce W. Sanford, for Society of Professional Journalists were on the joint brief, for petitioners Action for Children's Television, et al. Molly Pauker, for National Broadcasting Company, Inc., Lois Schiffer, for National Public Radio, Martin Wald and Janet E. Milne, for Post-Newsweek Stations, Inc., and James M. Smith, for Radio-Television News Directors Association, also entered appearances for petitioners.

Eric M. Lieberman, with whom John Crigler, William J. Byrnes, and Edward de Grazia were on the brief, for petitioner The Pacific Foundation and Interveners PEN American Center, Allen Ginsberg, et al.

Robert L. Pettit, General Counsel, Federal Communications Commission, with whom Daniel M. Armstrong, Associate General Counsel, Jane E. Mago, Sue Ann Preskill, and Laurence N. Bourne, Counsel, Federal Communications Commission, and Barbara L. Herwig and Jacob M. Lewis, Attorneys, Department of Justice, were on the brief, for respondents.

James P. Mueller, for Children's Legal Foundation and American Family Association, Peggy M. Coleman, for American Family Association, and Paul J. McGeady, for Morality in Media, Inc., were on the joint brief, for interveners and amicus curiae.

Bruce A. Taylor and Benjamin W. Bull entered an appearance for intervenor Children's Legal Foundation, et al.

Before: Mikva, Chief Judge, Edwards and Thomas, Circuit Judges.

Opinion for the Court filed by Chief Judge Mikva.

Mikva, Chief Judge: This case presents constitutional challenges to a Federal Communications Commission ("FCC" or "the Commission") order, promulgated at the direction of Congress, barring all radio and television broadcasts of "indecent" material. We believe that the disposition of this case is governed by our prior decision in *Action for Children's Television* v. *Federal Communications Commission*, 852 F.2d 1332 (D.C. Cir. 1988), in which we rejected vagueness and overbreadth challenges to the Commission's definition of indecency but found that the Commission's curtailment of "safe harbor" broadcast periods impermissibly intruded on constitutionally protected expression interests. Accordingly, we grant the petition for review.

I.

The particulars of this case are best understood within the history of government efforts to regulate the broadcast of indecent material. Since 1927, federal law has prohibited the broadcast of "any obscene, indecent, or profane language." 18 U.S.C. §1464 (1988); see also Radio Act of 1927, §29, 44 Stat. 1172 (1927) (original prohibition against utterance of "obscene, indecent, or profane language"). In 1975, the Commission essayed to "authoritatively construe[]" the term "indecent" and to distinguish it from the modern definition of obscenity, as formulated by the Supreme Court in *Miller* v. *California*, 413 U.S. 15 (1973). See *Pacifica Found*, 56 F.C.C. 2d 94, 97 (1975). The Commission defined indecency as "language that describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities and organs," and emphasized that its primary regulatory interest lay in protecting children from "language which most parents regard as inappropriate for them to hear." Id. at 98. The Supreme Court upheld the Commission's finding that a radio station's afternoon broadcast of a George Carlin comedy monologue entitled "Filthy Words" was indecent under section 1464. See *Federal Communications Comm'n* v. *Pacifica Found.*, 438 U.S. 726, 738-41 (1978).

The Commission, by its own account, subsequently "took a very limited approach to enforcing the prohibition against indecent broadcasts." In re *Infinity Broadcasting Corp. of Pennsylvania*, 3 FCC Rcd 930 (1987) [hereinafter Reconsideration Order]. The Commission essentially restricted its enforcement efforts to material broadcast before 10:00 p.m. that involved "the repeated use, for shock value, of words similar or identical to those satirized in the Carlin 'Filthy Words' monologue." Id. at 930. Between 1975 and 1987, no broadcasts at all were found actionable under this narrow prohibition. See id.

By 1987, however, the Commission had concluded that "the highly restrictive enforcement standard employed after the 1975 *Pacifica* decision was unduly narrow as a matter of law and inconsistent with our enforcement responsibilities under Section 1464." Id. Returning to the generic definition of indecency it had developed in *Pacifica*, the Commission issued three rulings declaring material that would not have violated the "Filthy Words" test to be indecent. See *Pacifica Found*, 2 FCC Rcd 2698 (1987); *The Regents of the Univ. of California*, 2 FCC Rcd 2703 (1987); *Infinity Broadcasting Corp. of Pennsylvania*, 2 FCC Rcd 2705 (1987); see also *New Indecency Enforcement Standards to be Applied to All Broadcast and Amateur Radio Licensees*, 2 FCC Rcd 2726 (1987) (summarizing Commission policies). Significantly, two of the cited broadcasts had aired after 10:00 p.m., the time period previously identified by the Commission as a "safe harbor" during which the risk of children in the broadcast audience was thought to be minimal. See id. at 2726. On reconsideration, the Commission affirmed its warnings with respect to the three broadcasts and noted, in response to requests for more specific rules regarding time channeling, that 12:00 midnight was its "current thinking" as to when the risk of children in the broadcast audience could reasonably be thought minimized. *See Reconsideration Order*, 3 FCC Rcd at 934, 937 n.47.

Reviewing the Commission's order, we first rejected petitioners' vagueness and overbreadth challenges to the Commission's generic definition of indecency. *See Action for Children's Television* v. *FCC*, 852 F.2d 1332, 1338-40 (D.C. Cir. 1988) [hereinafter *ACT I*]. However, we vacated the Commission's rulings that the two post-10:00 p.m. broadcasts were indecent. In addition to calling the Commission's findings "more ritual than real" and its underlying evidence "insubstantial," id. at 1341-42, we opined that a "reasonable safe harbor rule" was constitutionally mandated. Id. at 1343 n.18. Accordingly, we instructed the Commission to determine on remand, "after a full and fair hearing, . . . the times at which indecent material may be broadcast." Id. at 1344.

Before the Commission could carry out this court's mandate, Congress intervened. On October 1, 1988, two months after the ACT I decision issued, the President signed into law a 1989 appropriations bill containing the following rider:

"By January 31, 1989, the Federal Communications Commission shall promulgate regulations in accordance with section 1464, title 18, United States Code, to enforce the provisions of such section on a 24 hour per day basis."

Pub. L. No. 100-459, §608, 102 Stat. 2228 (1988) (emphasis added). Concluding that "[t]he directive of the appropriations language affords us no discretion," the Commission promulgated a new rule pursuant to section 1464 prohibiting all broadcast of indecent materials. See *Enforcement of Prohibitions Against Broadcast Obscenity and Indecency in 18 U.S.C. §1464*, 4 FCC Rcd 457 (1988) [hereinafter Order], codified at 47 CFR §73.3999 (1990) (restrictions on the transmission of obscene or indecent language). The Commission also "abandon[ed its] plans to initiate a proceeding in response to the concerns raised by" the ACT I panel. *Order*, 4 FCC Rcd at 457.

A panel of this court granted petitioners' motion to stay enforcement of the ban pending judicial review. See *Action for Children's Television* v. *FCC*, No. 88-1916 (D.C. Cir. Jan. 23, 1989). Six months later, while briefing on the validity of the Commission's order was underway in this court, the Supreme Court issued an opinion finding a blanket ban on indecent commercial telephone message services unconstitutional. *Sable Communications of Cal., Inc.* v. *FCC*, 492 U.S. 115, 109 S. Ct. 2829 (1989). Believing that Sable left open the possibility that indecent broadcasts may be proscribed if the Commission could prove that no less restrictive measure would effectuate the government's compelling interests, the Commission sought and obtained a remand from this court in order to assemble the relevant data supporting a total ban. *Action for Children's Television* v. *FCC*, No. 88-1916 (D.C. Cir. Sept. 13, 1989) (remanding record to the FCC for a "full and fair hearing on the issue of the propriety of indecent broadcasting").

The Commission subsequently solicited public comments on the validity of a total ban on broadcast indecency. See *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. §1464*, 4 FCC 8358 (1989). After receiving and reviewing the comments, the Commission issued a comprehensive report concluding that "a 24-hour prohibition on indecent broadcasts comports with the constitutional standard the Supreme Court enunciated in Sable for the regulation of constitutionally protected speech." *Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. §1464*, 5 FCC Rcd 5297, 5297 (1990). Finding a "reasonable risk that significant numbers of children ages 17 and under listen to radio and view television at all times" without "active" parental supervision, the Commission concluded that no alternative to a total ban would effectuate the government's compelling interest in protecting children from broadcast indecency. See id. at 5297, 5306. Current proceedings before this court followed issuance of the Commission's report.

II.

Petitioners, an amalgam of broadcasters, industry associations, and public interest groups, present several constitutional challenges to the Commission's action. First, they claim (some more spiritedly than others) that the Commission's definition of indecency is unconstitutionally vague and overbroad. Second, they contend that a total ban on broadcast indecency cannot withstand constitutional scrutiny. We address petitioners' contentions in turn.

A. Vagueness and overbreadth challenges

Petitioners contend that the Commission's definition of indecency—"language or mate-

rial that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs," *Order*, 4 FCC Rcd at 457—is unconstitutionally vague. A statute or regulation is void for vagueness if it "'either forbids or requires the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application.'" *Roberts* v. *United States Jaycees*, 468 U.S. 609, 629 (1984) (quoting *Connally* v. *General Construction Co.*, 269 U.S. 385, 391 (1926)).

We have already considered and rejected a vagueness challenge to the Commission's definition of indecency. In Act I, we noted that the Supreme Court, entertaining a similar challenge in Pacifica, had quoted various elements of the definition with approval and had ultimately affirmed the Commission's application of the definition to the broadcast under review. See *Act I*, 852 F.2d at 1338–39. In our view, the Supreme Court's decision in Pacifica dispelled any vagueness concerns attending the definition. See id. at 1339 ("[I]f acceptance of the FCC's generic definition of 'indecent' as capable of surviving a vagueness challenge is not implicit in Pacifica, we have misunderstood Higher Authority and welcome correction."); cf. *Information Providers' Coalition* v. *FCC*, No. 90–70379, Slip Op. at 2935–37 (9th Cir. March 21, 1991) (rejecting vagueness challenge to similar definition of indecency in dial-a-porn context). Our holding in ACT I precludes us from now finding the Commission's generic definition of indecency to be unconstitutionally vague.

Some of the petitioners raise the additional claim that the definition of indecency is unconstitutionally overbroad. They contend that, because the Commission fails to recognize "serious merit" as an absolute defense to a charge of indecency, the definition sweeps even constitutionally protected expression within its ambit. See *Houston* v. *Hill*, 482 U.S. 451, 459 (1987) (noting that statutes "that make unlawful a substantial amount of constitutionally protected conduct may be held facially invalid even if they also have legitimate application").

We rejected an identical overbreadth challenge in ACT I. We noted that indecent material qualifies for First Amendment protection regardless of merit, but that even material with "significant social value" may have a strong negative impact on children. See *Act I*, 852 F.2d at 1340. We thus found the Commission's method of identifying material suitable for broadcast only during the late night, safe harbor hours—whereby merit is treated as a "relevant factor in determining whether material is patently offensive" but "does not render such material per se not indecent"—to be permissible. See id. at 1339–40. Given that our decision today reaffirms the need for safe harbor periods during which indecent material may be broadcast and invalidates the Commission's attempt to ban such broadcasts altogether, we have no reason to revisit ACT I's conclusion that the Commission's generic definition of indecency comports with constitutional overbreadth requirements.

B. Challenge to total ban on broadcast indecency

Petitioners' core challenge is to the constitutional validity of a total ban on the broadcast of indecent material. Their contentions are two-fold: First, they claim that, under Supreme Court and circuit precedent, the government may not completely suppress indecent speech in any medium. Second, they argue that even if a total ban could theoretically be justified, the Commission's action here fails to satisfy the strict scrutiny standard recently reaffirmed by the Supreme Court in Sable.

We agree with petitioners that circuit precedent compels our rejection today of a total ban on the broadcast of indecent material. In ACT I, we stated that: "Broadcast material that is indecent but not obscene is protected by the first amendment; the FCC may regulate such material only with due respect for the high value our Constitution places on freedom and choice in what the people say and here." 852 F.2d at 1344. Addressing the scope of permissible regulation, we explained that: "Content-based restrictions ordinarily "may be sustained only if the government can show that the regulation is a precisely drawn means of serving a compelling state interest." [citation omitted] The Supreme Court has recognized a government's interest in "safeguarding the physical and psychological well-being of a minor" as "compelling." [citations omitted] But that interest, in the context of speech control, may be served only by carefully-tailored regulation." Id. at 1343 n.18.

We found that the Commission's elimination of the post-10:00 p.m. "safe harbor" period failed to satisfy these constitutional standards. Specifically, we concluded that:

"[T]he precision necessary to allow scope for the first amendment shielded freedom and choice of broadcasters and their audiences cannot be accomplished, we believe, unless the FCC adopts a reasonable safe harbor rule."

Id. We therefore instructed the Commission, on remand, to "afford broadcasters clear notice of reasonably determined times at which indecent material safely may be aired." Id. at 1343.

Our holding in ACT I that the Commission must identify some reasonable period of time during which indecent material may be broadcast necessarily means that the Commission may not ban such broadcasts entirely. The fact that Congress itself mandated the total ban on broadcast indecency does not alter our view that, under ACT I, such a prohibition cannot withstand constitutional scrutiny. While "we do not ignore" Congress' apparent belief that a total ban on broadcast indecency is constitutional, it is ultimately the judiciary's task, particularly in the First Amendment context, to decide whether Congress has violated the Constitution. See Sable, 109 S. Ct. at 2838. Moreover, we note that introduction of the appropriations rider preceded issuance of our decision in ACT I; thus, the relevant congressional debate occurred without the benefit of our constitutional holding in that case. See 134 CONG. REC. S9911–S9915 (daily ed. July 26, 1988).

Nothing else in the intervening thirty-four months has reduced the precedential force of ACT I. Indeed, the Supreme Court's decision in Sable, striking down a total ban on indecent commercial telephone messages, affirmed the protected status of indecent speech and reiterated the strict constitutional standard that government efforts to regulate the content of speech must satisfy. See Sable, 109 S. Ct. at 2836 (noting that "[s]exual expression which is indecent but not obscene is protected by the First Amendment," and stating that the government may "regulate the content of constitutionally protected speech in order to promote a compelling interest if it chooses the least restrictive means to further the articulated interest"). See also *Consolidated Edison Co.* v. *Public Serv. Comm'n*, 447 U.S. 530, 540 (1980). Even the Commission, prior to congressional enactment of the appropriations rider, shared this view. See *Reconsideration Order*, 3 FCC Rcd at 931 (dismissing suggestion that section 1464 should be read to totally prohibit the broadcast of indecent material, as such a reading would "run afoul of [the] constitutional premise" that the Commission "may only do that which is necessary to restrict children's access to indecent broadcasts" and "may not go further so as to preclude access by adults who are interested in seeing or hearing such material").

Thus, neither the Commission's action prohibiting the broadcast of indecent material, nor the congressional mandate that prompted it, can pass constitutional muster under the law of this circuit.

III.

We appreciate the Commission's constraints in responding to the appropriations rider. It would be unseemly for a regulatory agency to throw down the gauntlet, even a gauntlet grounded on the Constitution, to Congress. But just as the FCC may not ignore the dictates of the legislative branch, neither may the judiciary ignore its independent duty to check the constitutional excesses of Congress. We hold that Congress' action here cannot preclude the Commission from creating a safe harbor exception to its regulation of indecent broadcasts.

Our decision today effectively returns the Commission to the position it briefly occupied after ACT I and prior to congressional adoption of the appropriations rider. The Commission should resume its "plans to initiate a proceeding in response to the concerns raised" in ACT I, which it "abandon[ed]" following Congress' mandate. *Order*, 4 FCC Rcd at 457. We direct the Commission, in "redetermin[ing], after a full and fair hearing, * * * the times at which indecent material may be broadcast," to carefully review and address the specific concerns we raised in ACT I: among them, the appropriate definitions of "children" and "reasonable risk" for channeling purposes, the paucity of station- or program-specific audience data expressed as a percentage of the relevant age group population, and the scope of the government's interest in regulating indecent broadcasts. See *ACT I*, 852 F.2d at 1341–44.

For the foregoing reasons, the petition for review is granted, the order under review is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

Mr. SPEAKER, I am a realist, If we were to have a separate vote on this amendment, the outcome would be obvious. After all, it is August of an election year, and no one wants to go on record as supporting indecent programming.

The sad fact is that the Byrd amendment will not rid our Nation's airwaves of indecent programming. The courts have seen to that. What the Byrd amendment will do is force the FCC to undertake a lengthy rulemaking proceeding, at taxpayer expense, that is preordained to fail. While I suppose there are certain benefits that accrue to Members of the House and Senate by forcing the agency down this path, we should all be cognizant of the cost and likely outcome.

Mr. SPEAKER, at this point I would like to insert the text of a letter that I received from the American Civil Liberties Union [ACLU] regarding the Byrd amendment. While I am not a member of that association and do not always support its positions, in this case the ACLU analysis is right on point.

AMERICAN CIVIL LIBERTIES UNION,
Washington, June 12, 1992.

DEAR REPRESENTATIVE: In approving S. 1504, the Public Telecommunications Act, last week, the Senate added an amendment that would prohibit indecent programming on most commercial and public radio and television stations from 6 a.m. to 12 midnight. The amended bill will soon be considered in the House, perhaps as early as Monday. The American Civil Liberties Union urges that this amendment, which violates the First Amendment's guarantees of freedom of speech, be deleted from the bill, as it effectively deprives adults of access to constitutionally protected materials.

Congress has a responsibility not to enact unconstitutional legislation, and this provision is unconstitutional. The Supreme Court has unambiguously declared that "[s]exual expression which is indecent but not obscene is protected by the First Amendment." *Sable Communications* v. *FCC*, 492 U.S. 115, 126 (1989). Moreover, government cannot restrict access to protected expressive materials under a child-protection theory because "the result is to reduce the adult population * * * to reading what is fit for children." Id at 128, quoting, *Bulter* v. *Michigan*, 352 U.S. 310, 383 (1957). The Senate's proposed safe-harbor rule would limit more adult programming to the hours of midnight to 6 a.m., putting the broadcasts off limits to children and most adults alike.

In reviewing a similar restriction on the hours during which indecent programming may be broadcast, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Constitution mandates "reasonable safe harbor rules." *Action for Children's Television* v. *FCC*, 852 F.2d 1332, 1343 n.18 (D.C. Cir 1988). Such reasonableness must include "due respect for the high value our Constitution places on freedom and choice in what the people say and hear." Id. at 1344. To be constitutional, such a rule "would give effect to the government's interest in promoting parental supervision of children's listening, without intruding excessively upon the licensee's range of discretion of the fare available for mature audiences and even children whose parents do not wish them sheltered from indecent speech." Id.

By extending the prohibition on indecent programming to midnight, the Senate bill violates these principles by restricting what may be broadcast to hours when most viewers and listeners are asleep and effectively denies adults access to constitutionally protected material. The restriction should be abandoned.

Sincerely,

ROBERT S. PECK,
Legislative Counsel.

Mr. Speaker, the Senate's acceptance of the Byrd amendment is unfortunate. But it constitutes only a small portion of the bill before us, H.R. 2977. The proper course for the House to follow is to concur in the Senate amendment to H.R. 2977 and clear the bill for the President's signature. I urge my colleagues to join me in supporting this motion and help to ensure that public television and public radio can continue to serve the American public in a manner that informs, enlightens, and entertains them.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the motion to concur in the Senate amendment to H.R. 2977. Last November, this House passed H.R. 2977, the Public Telecommunications Act, with a showing of strong bipartisan support.

Like the House bill, the Senate amendment addresses the authorization levels for the Corporation for Public Broadcasting for fiscal years 1994 through 1996. The Senate amendment authorizes the Corporation at $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

I am pleased at the assurances made to the Congress by the Corporation that a significant portion of the appropriated funds will be directed toward educational programs and services, as well as the expansion of radio services.

When the Corporation was first created, Congress specified that the public broadcasting system must receive no more than 40 percent of its money from the Federal Government. In fact, today, our contribution amounts to only 15 percent of its operating expenses.

Most importantly the Senate amendment includes a number of administrative checks to ensure that the Corporation acts in the best interests of its national audience and is accountable for the use of Federal funds. It requires the Corporation to adhere to its statutory objectivity and balance mandate in the distribution of programming grants and report to Congress on its effort to carry out the mandate.

The Senate amendment further requires federally funded programs to be disclosed to the public; it requires the corporation to maintain a public file containing information concerning national programming; and it requires the independent television service [ITVS] to award its production grants on a geographically diverse basis. Finally, the Senate amendment also seeks to improve the quality of programming on both public and commercial television.

Mr. Speaker, I believe that the Public Telecommunications Act will enable the system to fulfill its commitment to providing much-needed educational and radio expansion services.

Accordingly, I urge my colleagues to support the motion to concur in the Senate amendment.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I am pleased to rise in support of this bill to provide funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program.

Our public broadcasting network provides the American viewing and listening public with diverse and innovative noncommercial programming of the highest quality.

I am particularly interested in the way that public broadcasting is finding new and exciting ways to make telecommunications technology work for us, especially in bringing educational programming to the classrooms of rural America. Educators seem to be among the biggest fans of public television, probably because they have seen first hand this medium's potential.

Last year, Ms. Pam Montgomery from my home State was named a "Teacher of the Year" by President Bush. When I met with Ms. Montgomery after she received her award, she told me that she believed part of her success as a teacher came from the effective use of educational TV in her classroom.

After seeing a videotape of Mrs. Paula Malcolm using "Reading Rainbow" in her classroom at Hill Elementary School in Munford, AL, I have become a believer.

The education potential of public broadcasting is not limited to the formal classroom. As part of the annual Sakura Festival in Tuscaloosa, AL, this spring, children had a chance to learn about the Japanese tradition of kite-building at the Children's Hands-on Museum by watching a "3-2-1 Contact" show on the subject.

These kids learned aerodynamics, Japanese folk culture, and created a kite which is a work of art and now hangs in a place of honor in the lobby of the museum.

Jane Ingram, director of programs of the Children's Hands-on Museum, credits Alabama public television's educational services coordinator for making the program available.

Alabama public television has a longstanding commitment to education. I should note that the executive director of APT, Judy Stone, has just been elected to the board of directors of PBS and I am expecting great things from her.

In addition to the services which I just mentioned, APT delivers to the 1.5 million households in Alabama GED exam preparation programs, the learn to read literacy program, and coverage of issues of unique interest to us.

Many of you will remember the exclusive interview of President Jimmy Carter that was produced by the news and public affairs division of APT and which aired on 200 public television stations.

I am particularly pleased to see that the PTFP is reauthorized. It seems to

me that as we place greater and greater faith in public broadcasting as an effective tool to help educate the American public with innovative programming, we should provide this medium with adequate infrastructure support.

There are still many rural areas in this country that are not served by public radio and TV and public broadcasting systems that need funds to expand their services and modernize their equipment. Unfortunately, the self-styled "Education President" zeroed out this important program and it was left to this Congress to restore its funding.

The bottom line seems to be that investing in our public broadcasting network is one of the most cost-effective methods of ensuring continued educational and informational services to all of our constituents.

Again, I strongly support this bill and I urge my colleagues to do likewise.

Mr. RINALDO. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL]; the chairman of the Subcommittee on Telecommunications and Finance, [Mr. MARKEY]; the ranking Republican of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT]; and the ranking Republican on the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. RINALDO], for their work on this issue.

Mr. Speaker, when I stood in the well to address the House on this legislation in November, I expressed some concern as to the objectivity and the balance of some of the programming aired over our public television stations.

I continue to consider objectivity and balance to be the standard by which our public television stations should govern themselves. I am happy to note that this bill, as amended by the Senate, contains the objectivity and balance provisions for which I have long argued.

I think, Mr. Speaker, this is a much improved bill. The Corporation for Public Broadcasting, through its funding of programming by the Public Broadcasting Service, continues to provide the country with a great variety of entertainment and educational programming. CPB is also at the forefront of technological innovations in merging video presentation and education efforts. They are to be commended.

Let there be no mistake about it. I am a fan of public broadcasting; I am not out to kill "Big Bird." But let us also make no mistake about the fact the concerns I raised were legitimate and deserving of the solution proposed in this bill.

In my opinion, PBS has become too centralized, making programming decisions which serve a very diverse American public without enough input from that viewing public. I firmly believe that input from member stations to PBS central is critical in interpreting and serving the viewing needs of the American consumer. I would like to see, and many of my colleagues would like to see, more of that kind of input.

For example, when PBS distributed shows like "After the Warming," "Global Change," and others that showed public television viewers the alarmist side of global warming, there was not anything on the other side of that coin. "The Greenhouse Conspiracy," which was a critically acclaimed documentary that uses science to virtually take apart a good deal of this alarmist global warming theory, and theories that were the basis for a lot of the PBS programs, was not shown. The reason given was a lack of production values.

Individual stations were forced to procure this program and the balance it represented, if they could, if they could afford it, by themselves.

Science is useful to the extent it constitutes a search for objective truth. Certainly programming on science-based issues should reflect the debate, if there is one, in a scientific community, but it must be based, as all science is, on the isolation of some objective and verifiable fact, not simply the rhetoric of political interest groups, and not the purported facts that they cite for otherwise unsupported positions.

That is when we need objectivity and balance, when there is significant debate over a particular subject.

Mr. Speaker, I want to commend Mr. Bruce Christenson, the president of PBS, for his willingness to engage in what I believe is helpful dialogue with the Congress over this issue and similar ones.

In authorizing the Corporation for Public Broadcasting, Congress mandated that CPB was to "facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

The Senate amendment before us today provides the way through which those goals can be enforced without the unintended intrusion of Government censorship. The Senate amendment requires that CPB annually report to Congress every organization receiving a grant from CPB, including all programs produced under such grants. The Senate amendment also requires the newly formed independent production service, the independent television service [ITVS], to make annual reports as to its program funding, in order to ensure that programming produced with Federal funds reaches the audience it is intended to reach, and in a manner which maximizes the benefits to that audience.

The Senate amendment further requires CPB to actively expand its efforts to provide objectivity and balance in programming and to report to Congress on these efforts.

Clearly one of the benefits of public broadcasting is its ability to provide objective public affairs programming, offer in-depth coverage and analysis and, to a very large extent, it is successful in doing it. These amendments do not require that specific programs be funded or aired according to a specific schedule, but these amendments are valuable because they require CPB and PBS to focus on balance and objectivity.

Again, this is an improved bill. I am pleased to support it. I urge my colleagues to do the same.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I rise in strong support of H.R. 2977, the bill authorizing reauthorization for public broadcasting.

Mr. Speaker, I rise in strong support of H.R. 2977, the bill reauthorizing the Corporation for Public Broadcasting. Eight months ago, the House of Representatives approved legislation to fund the CPB, which supports noncommercial radio and television services. Now that the Senate has worked its will, I hope we can move this bill forward quickly.

Mr. Speaker, I firmly believe the system we have developed that includes space on the public airwaves for noncommercial, educational uses of television and radio has succeeded and that we should do everything we can to preserve it.

Too many of my constituents have told me how disturbed they are by the quantity and quality of violence on commercial television. I share that concern and was moved by the words of Mr. Newton Minow, a former chairman of the Federal Communications Commission, when he said:

In 1961, I worried that my children would not benefit much from television. But in 1991, I worry that my grandchildren will actually be harmed by it.

He pointed out that the programming on public television has been the answer to that worry, as it struggles to provide outstanding public service while remaining in the role of a perpetual beggar in the richest country in the world.

Mr. Bruce Christensen, the president of the Public Broadcasting Service, has also made the case for public broadcasting very eloquently, calling the public airwaves a:

National resource like * * * public lands. Multiple use of that resource requires public

policies that take into account the need for commercial development as well as reserve part of our communications spectrum for public uses just as we preserve national forests and parks.

Mr. Speaker, I ask that my colleagues give H.R. 2977 and public broadcasting their support. I am inserting Mr. Christensen's speech into the RECORD so that my colleagues will have the benefit of his remarks.

THE CASE FOR PUBLIC TELEVISION

[Remarks of Bruce L. Christensen, President, Public Broadcasting Service (PBS)]

Thank you Gil and your National Press Club colleagues for inviting me to speak to you this afternoon. It's a pleasure to be here with so many friends and colleagues.

This has been a particularly trying time for those of us who work in public broadcasting. One of my public television colleagues put it this way, "When you're doing the Lord's work, you don't expect to get the hell beaten out of you."

This statement should tell you two things about those of us who work in this institution. First, we are a self righteous crowd who believe that what we are doing is essential to democracy itself. And second, we are constantly surprised when our assumed virtues turn out to be someone else's blackest sins.

The journalist in the audience should certainly recognize and perhaps even empathize with this experience.

The institution of public television has taken upon itself the responsibility to be E. B. White's definition of a "saving radiance in the sky." Its driving force is public service. It exists to provide a public good to the citizens of this nation.

That's pretty highfalutin stuff! Where do we in public television get that notion?

Like Tevye's response in "Fiddler on the Roof," the idea comes from tradition! And, I might say, it comes from practice.

Public broadcasting pioneers petitioned the FCC in the early fifties for space to be reserved on the public's airwaves for noncommercial, educational uses of television and radio. They succeeded in making the case that, although commercial broadcasting was important, it should not be the only use of the public's airwaves.

These pioneers argued that the only way to adequately care for the public interest in broadcasting was to create a separate noncommercial system of television and radio stations that had education rather than commercial profit as its bottom line.

Their case was based on the premise that commercial broadcasting could not adequately serve two masters—profit and public interest, at least not in the competing commercial network model that evolved in the United States.

These pioneers won the day. Channels were reserved in both the television and the underdeveloped FM radio spectrum for a class of licenses that the Federal Communications Commission would call, noncommercial, educational radio and television and they have become America's public broadcasting stations.

By any measure these pioneers might apply, public broadcasting has been a success. There are 344 public television stations around the country owned by 176 different licensees. Public radio has more than 500 stations. These public TV and radio stations are owned and operated by community boards, universities, state broadcasting authorities and even local school districts.

More than five million people donate their time, money and professional skills as volunteers, subscribers and local board members, making public broadcasting one of the largest membership organizations in the country.

The public is the source of our strength and we are accountable to them daily for the programs that we air.

Financially, the institution exceeds 1.6 billion dollars in annual revenue with about 17 percent of that amount coming from the federal government.

Most agree that some of the very best children's programs, news and public affairs broadcasts, drama, history, art and music programs appear on public television and public radio. And, more than 100-million people each week use one or more of these services. The answer to the question of whether public broadcasting is a successful and valuable public good is a resounding, "Yes."

The questions we must answer today, however, are different than those asked forty years ago. Do citizens of our nation any longer need a noncommercial, educational broadcasting system? Has technology, as George Will argued, overcome the need for public television? Is the institution off course, pursuing a political agenda, as charged by some in the Congress?

Based on the Senate vote two weeks ago of 84 to 11 in favor of reauthorizing the Corporation for Public Broadcasting for another three years, we might easily say, "Our importance to the American people has been overwhelmingly confirmed."

That is the case, but if a sense of victory is all that we take from this experience then we are missing an extremely important lesson.

The lesson (in the words of another of my colleagues) is that: "For public broadcasting, the era of assumed virtue is over." I would argue that the era of assumed virtue is over for all institutions with "public" in their title, but that's another speech.

What I would like to do today is to accept the premise and make the case for funding public television, outlining for you how we will put technology to work in new ways to serve the public interest through the end of this decade and into the twenty-first century.

Two words continue to define the need for public broadcasting. They are education and noncommercial. The public good offered by this institution lies in its ability to treat the American people as citizens of a nation rather than as consumers in a marketplace. No other commercial radio or television services have as their bottom line the educational value of their program service to the audiences served.

"Aha," you say, "You've overlooked those wonderful services on The Discovery and The Learning Channel."

No, I haven't. These channels, like all the others on cable, exist solely to make a profit. If they fail at this objective, they will be replaced.

Those who argue for private goods (in essence the marketplace) to replace public goods, make a profound mistake by assuming the result will somehow be better. We don't have to look very far to see the difference between marketplace rules and responsible public interest regulation The Savings and Loan and airline industries could have used less of the former and more of the latter.

To assert absolute marketplace superiority only creates confusion in our ability to even talk about the value of what the Constitution calls "the general welfare." The term welfare itself, for example, is so charged with political rhetoric as to make useful discussion about its meaning to our society impossible.

We have lost the language of public service and adopted marketplace lexicon to describe our social aspirations. I cringe when I hear people talk about education as a product, teachers as service providers, principals and administrators as marketers and managers.

The purpose of education is not to sell goods or services to parents for the benefit of their children. The general welfare of this nation demands that public—not private—attention be paid to the care and nurturing of its most precious resource—the minds of its children.

The same thing has happened in broadcasting. What began as a grand design to serve the public interest, convenience and necessity, found itself (at least as far as television is concerned) portrayed as nothing more than another household appliance—"a toaster with pictures"—was the phrase used by one recent FCC Chairman to describe his view of television and its relationship to our society. This view framed an argument stating that the time for any regulation of the medium had passed and that spectrum value should be determined by the marketplace.

This view would sell the public airwaves to the highest bidder. Buyers then would be free to pursue the highest commercial return for their investment. That's "the American way!"

That is only part of the American way. The other part argues for equity, for bridges in communications policy that serve the needs of all Americans. It argues that the public airwaves are a national resource like its public lands. Multiple use of that resource requires public policies that take into account the need for commercial development as well as reserve part of our communications spectrum for public uses just as we preserve national forests and parks.

Fortunately for the American people, current members of the FCC agree on the need for sound, well-reasoned public policies for the use of the airwaves. The arguments that hold sway, however, are still based primarily on economic models that give only modest recognition to the social consequences of communications policy decisions.

Earlier I said that the terms education and noncommercial define public broadcasting's importance to this society.

Our emphasis on education has led some to charge that public broadcasting is an elitist institution, that it serves only those who are well educated and wealthy. Nothing could be further from the truth. Kevin Kline said it best when he said, "If education is elitist, then public television is elitist." The desire for education occurs at all levels of our society and public television has become an indispensable educational resource.

Right now, local stations serve 30 million elementary students each week and our telecourses are used by two out of three colleges. We're training teachers in how to use science programming in the classroom and delivering advance high school courses to students in 23 states via satellite.

But, let me tell you where we are going. We are developing plans to launch a math channel for teachers, parents and students and hope to have it ready in 1994. We are connecting high school students across the country in an electronic debate of national election issues this fall.

In December of 1993, when we move to a new satellite delivery system, public television will have the capacity to send as many as fifty-five different channels of video

and over 200 channels of CD quality audio to our stations as well as to the schools, workplaces and homes of this nation.

The educational capacity of public television will take a giant leap forward in the middle of this decade, adding two-way interactive facilities. America will have an educational technology capability second to none in the world.

Ours is the challenge to wisely use this capacity to teach—to make the knowledge of past generations available to every individual who seeks it. Because, in addition to using the words noncommercial and educational to define public broadcasting's value to our society, we must add the terms universal access and quality.

Universal access stands for two things. First, regardless of ability to pay, everyone should have access to the finest of humankind's knowledge and experience through their choice to tuning to a particular channel on the dial.

Second, that those who have something to say to their fellow citizens can get reasonable access to today's forum for such conversations. The creators of public broadcasting saw it as the venue for such dialogue.

Beyond accessibility is the basic issue of staying in touch with each other. As audiences continue to be splintered into niches for sports, comedy, movies and cartoons, only public television offers a unifying hearth to examine our culture as a whole. This is fundamental to our mission, and I believe it's fundamental to the continued vigor of this experiment in democracy.

The concept of universal access in public broadcasting embodies the dual right of equitable service to all the people; and the responsibility to offer opinions and points of view generally ignored on television and radio. To do so means that we sometimes create waves. And, I suppose that is inevitable.

For some of our critics, even the right of universal access is questionable. Like Marie Antoinette when speaking of another commodity in public demand, they respond, "let them buy cable."

The fact that cable is unavailable or unaffordable in forty percent of American homes carries no weight with folks at the Heritage Foundation who see all things as a matter of economic choice.

Other critics object to public broadcasting's role as presenter of ideas, visions and discussion that vary from the mainstream offerings of commercial television. For them we appear to be a vehicle for ideology.

Others argue that those in the heartland of this great nation shouldn't be forced to watch programs that are geared to major metropolitan regions of the country. The creators of public broadcasting devised an ingenious answer to questions about "What's appropriate for my community."

They structured the institution to leave the ultimate choice to local communities themselves. No one in public broadcasting can force any station to air a program that the station doesn't believe meets its community standards.

PBS makes decisions about programs in the national schedule. In ninety-nine percent of the cases stations all across the country accept and air the programs selected. Occasionally, a particular program is judged by an individual station, not to fit the viewing standards of its community. Their judgment prevails. Local station control and responsibility for what airs in their community is the foundation of accountability in public television.

Complaints of bias about a small number of programs have come from the far left as well as from the right.

The left contends that public broadcasting has been captured by the established business interests of this nation. They give as evidence the numbers of programs on business and commercial topics as well as the choice of guests and presenters on news programs like the MacNeil/Lehrer NewsHour.

Most of the arguments from the right portray public television as captive of the "liberal left." Politica documentaries and some cultural programming addressing homosexual themes have been roundly criticized as being unworthy of taxpayer support.

I am astonished how absurd this argument sounds when it is made against other public funded activities. No one ever asks how many taxpayers want to pay the salaries of policemen who beat-up the people they arrest. Nowhere among the solutions to the problem identified is elimination of funding for the police force.

When the Supreme Court hands down a decision with which many taxpayers, perhaps even a majority, disagree, no one suggests that the court's funding authorization and appropriations be reduced.

Neither should eliminating public financing for our arts.or public broadcasting institutions be the solution of first choice when addressing their perceived problems.

It was to the assertions of bias that CPB Board Chairman Sheila Tate responded in her speech last week in San Francisco at public television's annual meeting. She promised (and I join her and support the CPB Board's efforts) to address any perceived or real bias in public broadcasting's programs.

As in all things political, self interest will have to be carefully weighed by CPB in its evaluation of those who charge that such bias exists. And, those of us in public broadcasting must openly listen to and act on suggestions to improve the quality of our service to the American people.

CPB's board of directors must certify that our institution is acting in the public interest. And, together with our viewers and listeners, they must affirm our continued merit of federal support. That support is essential if we are to maintain the noncommerical, educational nature of our services in the decades to come.

Our unique base of federal, state, business and individual member support creates a unique mix of funding sources that sustain this institution. This mix gives us editorial independence from any single funding source, while making the contributions of each essential in our ability to offer the range and quality of services we provide each day.

Tight financial times put a greater burden on those in the public sector to clearly articulate the value of their institutions to those whose support they seek.

The case for public television includes its role as the nation's story teller, creating the national shared experience of reliving America's CIVIL WAR one hundred and thirty years after it happened.

The case for public television includes that of being teacher to millions of children and adults each week, helping them learn everything from their ABC's to Japanese to Probability Statistics to the natural wonders of the universe.

The case of public television includes that of provocateur: asking viewers to face ethical, political and moral dilemmas of such profound complexity that the only way to escape, as Fred Friendly says, is by thinking.

The case for public television includes that of being America's town square, where voices and visions ignored elsewhere in the medium, can be seen, evaluated and judged. If found wanting, dismissed, but not for lack of a platform. Free speech only has meaning in a democracy if the right for all voices to be heard in the most powerful medium of our age is continually affirmed.

The case for public broadcasting rests on the American concept of citizenship, of providing equal opportunity and access to the richness of our cultural, artistic, philosophical and religious heritage.

From its structure to its mission of public service, the case for public broadcasting continues as strong and as bright today as it was forty years ago when our founding pioneers first petitioned to create noncomercial, educational radio and television services to meet the intellectual, artistc and spiritual needs of this nation.

The American people have a right to see and hear noncommercial, educational broadcasting services. They, also have the responsibility to secure the blessings of those services for themselves and for their posterity.

Like I said at the beginning, that's pretty highfalutin stuff!

The marvelous thing about it for those of us who work in public broadcasting is that it's all true. Public service is the driving forces at PBS. Our agenda is to provide those television services that are essential to this society for its democratic well being. We couldn't ask for a better or more challenging job.

□ 1310

Mr. RINALDO. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, when this House voted nearly 2 months ago against a balanced budget amendment to the Constitution, many in opposition insisted that Congress can exercise self-control and reduce spending.

Today, those who insisted that they can control their voracious appetites for our tax dollars have an opportunity to put our money where their mouths are.

We are discussing a $1.1 billion 3-year authorization for what we must admit is a frill. This program is not vital to our national well-being, it does not feed hungry children, it does not expand economic growth, it does not uncover a cure for cancer; most assuredly it does absolutely nothing to reduce our uncontrolled $400 billion annual deficit or to reduce our nearly $4 trillion dollar national debt.

Funding this program is especially wrong because it is not something that only Government can do, or even something that Government does best. Public broadcasting has been made obsolete by the proliferation of cable which makes channels available for local access and educational programming, not to mention arts and entertainment, all of which fills the niche created by tax-

payer-subsidized public broadcasting. Technology makes public broadcasting no longer necessary.

The only difference between for-profit cable, broadcast networks, and public broadcasting is that the private companies respond to consumer demand and competition. The private alternatives are competitive and they produce a broad range of quality programming at a profit. This programming would be actually broader if public broadcasting would go out of business and they would take up some of the better programs that are now subsidized by the taxpayers. Unfortunately we are being asked to fund a 37-percent increase for a federally subsidized alternative to profitable cable television, as well as video tapes, and other electronic alternatives.

With the collapse of communism, much has been done to reeducate people in the former Soviet bloc. We could learn from their experience that State-sponsored corporations and industries are not in the interest of a society. How ironic if we prevailed over socialism overseas only to be bankrupted by it at home, because no one in this body is willing to cut any Government program whatsoever, even one that is a service that can be provided by the private sector.

So now is the time for this body to demonstrate its ability to keep its word to the American public. We have been challenged to stop needless spending; this is a defining moment. We said we did not need a balanced budget amendment to do it. Let us do it now. Let us begin the long trek back to fiscal sanity by cutting at least this chunk of unnecessary spending that is not absolutely necessary.

The Federal Government is going broke, and we are going to spend another billion taxpayer dollars on subsidizing information and entertainment? Give me a break. Vote against this bill.

Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 2977, the Public Telecommunications Act of 1991. This legislation, which originally passed the House last November, authorizes the appropriation of funds for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996. This legislation will ensure that the public broadcasting system can continue to serve Americans with high quality, diverse, and innovative programming, community service, and technological innovation.

Since its inception in 1967, CPB and the public broadcasting community has succeeded in developing programming that challenges the hearts and minds of Americans of all ages and walks of life. But public broadcasters have not limited their efforts to creating and airing innovative programming. Public broadcasters have achieved excellence in numerous areas. They have pioneered technological developments, initiated community outreach and educational projects, widened communications access for disabled Americans, and enhanced and extended public broadcasting to unserved and underserved audiences. Looking toward the future, public broadcasters have pledged to use their technological and programming expertise for enhanced educational projects and expansion of radio service.

The funds authorized by this bill will provide the public broadcasting system with the resources critical to the achievement of these goals. The legislation authorizes CPB appropriations of $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996. The bill also authorizes continued funding of the Public Telecommunications Facilities Program [PTFP] at $42 million for each of fiscal years 1992, 1993, and 1994. PTFP's grant funds will enable public television and radio broadcasters to reach areas not already served and to maintain and modernize existing facilities. The bill also expands the role of PTFP in broadening access to telecommunications services of underserved audiences, including deaf and hearing impaired and blind and visually impaired people.

In addition, the bill includes provisions to increase the managerial efficiency of the CPB Board; to enhance reporting requirements for CPB and the independent television service; to clarify that the Children's Television Act of 1990 applies to both commercial and noncommercial broadcasters; to improve the EEO performance of public broadcasting stations; and to enable CPB to fund affordable training programs.

The bill we are considering today also incorporates several provisions adopted by the Senate last month. These changes, which reflect the development of a bipartisan approach to these issues, will improve CPB's ability to serve the public.

First, in a new provision, the bill clarifies the existing statutory mandate of the CPB Board to facilitate the development of high quality, diverse, innovative, and creative programming that also is objective and balanced. Specifically, the bill requires the CPB Board to give the public the opportunity to comment on programming, to review national programming on a regular basis with an eye toward identifying needs not met by such programming, to take steps the CPB deems appropriate to meet its responsibilities regarding grant awards for national programming, and to report to Congress and public broadcasting stations on its efforts in that area. By facilitating citizen comment and reaction to public television and radio programming, this review process will strengthen the public broadcasting system. It will enable CPB to address unmet needs and unexposed points of view more efficiently and make it more responsive to its audience.

A second new provision requires CPB to maintain a public file that contains information concerning the funds given out by CPB and the independent television service for the production of national programming. This requirement will facilitate public access to information on CPB, without jeopardizing its independence in carrying out its mandated responsibilities. Much of the information that will appear in CPB's public file already is collected and available. This provision merely centralizes it and promotes greater public access and accountability.

Other new provisions in the bill will promote public broadcasting's participation in new educational telecommunications initiatives. Specifically, the bill requires CPB to prepare reports on the most effective way to establish and implement a ready-to-learn public television channel and to use telecommunications facilities for distance learning projects in rural areas.

Finally, this legislation includes new provisions that impose a ban on indecent programming on broadcast television and radio between the hours of 6 a.m. and 12 midnight; that require CPB to expand the text of the identification that follows programs funded by CPB; that require ITVS, to the maximum extent practicable, to award grants to recipients representing the widest possible geographic distribution; and that permit CPB Board members to sit until their successor is confirmed or for the remainder of the calendar year.

Mr. Speaker, this legislation is a consensus package that permits CPB and public broadcasters to continue to provide exceptional programming and services to the American people. I want to thank the full committee chairman, Mr. DINGELL, for his continuing guidance and support in this area, and the ranking Republican member of the subcommittee, Mr. RINALDO, for his hard work and cooperation on this legislation. Further, I want to acknowledge the helpful efforts of the public broadcasting community, including among others, the Corporation for Public Broadcasting, America's Public Television Stations, and National Public Radio.

I urge my colleagues to support this important legislation so that the President may give it his immediate consideration.

Mr. MCMILLEN of Maryland. I'm pleased to support the reauthorization of funding for the Corporation for Public Broadcasting for fiscal years 1994–96, and congratulate Chairman MARKEY for his efforts on this legislation.

Public television provides a truly unique service to the public, and remains an important source of educational, cultural and public affairs programming for the Nation. It has also proven extremely effective in serving the public interest.

Unlike commercial broadcasting, public broadcasting can operate without being tied to the dictates of program ratings. The buffer from such forces has a demonstrated record, one which has been crucial in maintaining diversity and program quality.

The educational impact of the CPB extends far beyond "Sesame Street." For example, it provides college courses—broadcast daily—for which adults can receive credit. This addition to the high-quality entertainment for which public broadcasting is so well-known.

Maryland's public television service provides an excellent example of such educational investments. MPT's "College of the Air" has helped tens of thousands of students gain credit toward their degrees through telecourses. By working with numerous institutions of higher learning in our region, it is one of the most successful programs in the Nation.

For more than 20 years, Maryland Public Television [MPT] has provided excellent service to the citizens of my district and State. MPT proves how the Federal, State, and private funds that support public broadcasting benefit our citizens.

We, in Maryland, are proud of the achievements of our public television, and the benefits

it provides. The problems raised in the other body by a handful of individuals has been troubling to me, but I am pleased that an agreement satisfactory to all concerned was able to be worked out. The representatives of CPB and America's public TV stations are to be commended for their efforts in securing this agreement.

Again, I commend the chairman on this legislation, and urge my colleagues to support reauthorization legislation.

Mr. SWIFT. Mr. Speaker, I would like to address in particular one important provision of this legislation as the significance of it may have escaped the attention of the Members.

For the first time in 14 years, we are amending in the 1934 Communications Act the declaration of policy which describes the goals and states the purpose of the Corporation for Public Broadcasting. Through the declaration, we are amending and expanding the CPB's underlying mandate in a significant way by stating—

It is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies.

What we are doing in this provision is planning for the future. We are clearly on the edge of a number of exciting and challenging breakthroughs in communication technologies. In particular, digital compression and improved satellite broadcast technology should make multi-channel, direct-to-the-home satellite broadcast service [DBS] a strong competitor to existing cable systems within the next few years.

DBS will almost certainly be a national or regional broadcast service. And it will therefore be difficult to reconcile our traditional concept of localism, of local broadcasters holding up a mirror to reflect the needs and aspirations of their local community, with this new technology. But the DBS technology will serve very well to reach diverse communities of interest—that may be dispersed geographically—but have common interests, needs, and concerns.

It is these dispersed communities, whether they are ethnic communities, cultural communities, or others with common interests or educational needs, that can be well-served in the aggregate where on a purely local level their needs would not likely be served by local broadcasters or cable companies.

In the cable bill that the House just passed, there is a provision that I sponsored which requires that DBS operators reserve—at no more than the direct cost of transmitting the signals—4 to 7 percent of their capacity for noncommercial use. That noncommercial setaside is to be used by public telecommunications entities and educational institutions to serve the public needs, including those communities of interest that may be underserved by existing over-the-air broadcasting.

I commend the authors of this legislation for including this statement of public policy; that the public has the right to noncommercial programming that reflects their needs and concerns—as individuals and as members of communities of common interests. To extend this public right to new communications technologies as they come on line is a most appropriate extension of the goals of the 1934 Communications Act of an informed citizenry and the universal availability of information.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of this reauthorization bill.

Mr. Speaker, this reauthorization recognizes that public broadcasting is an invaluable resource for all Americans, but particularly for our children.

Mr. Speaker, American children watch an average of between 4 and 6 hours of television every day. Given this fact, it is crucial that these children have an attractive alternative to violent programming, sports, and cartoons. CPB-funded programs such as "Reading Rainbow" and "Sesame Street" fill that niche. These programs are really after-school education, and they contribute to the development of brilliant young minds across our country. This reauthorization will allow public broadcasting to expand its educational program hours and stay on the cutting edge of program quality.

This authorization will also foster the public broadcasting community's partnership with our Nation's schools and universities. In addition to the programs which run on public television and radio stations, CPB has funded innovative instructional video tapes and laster discs for classroom ruse. WNET—channel 13—an outstanding public television station in New York City, has established a summer institute program which trains teachers to use these public broadcasting tools as a supplement to their daily lessons.

CPB and public broadcasters have also used satellite-delivery technology to bring their programming into the American classroom. Mr. Speaker, this innovation breaks down the traditional barriers of geography and income, enabling all American students to learn foreign languages, study current events, or prepare for advanced placement exams through interactive programming. With our support these types of programs will flourish, and assist us in our mission to improve American schools and universities.

Excellent educational programming exists on cable television—Arts & Entertainment, the Discovery channel. However, public broadcasting is the only free, over-the-air source with a congressional mandate to serve the public. It reaches all Americans, regardless of income or geography, with programming of superb quality—quality which is rarely equaled by over-the-air broadcast TV.

For a quarter-century, the public broadcasting community has produced the finest programming on television and radio—programs such as "The Civil War," "Nova," "Washington Week in Review," and "The American Experience." This authorization recognizes these achievements, and paves the way for future successes. I urge my colleagues to support this legislation.

Mr. RICHARDSON. Mr. Speaker, just over a year ago, the House Telecommunications Subcommittee, began its work to pass a reauthorization bill for the Corporation for Public Broadcasting [CPB]. Today, I believe we have a final product that will strengthen and expand a public broadcasting system enjoyed by millions of Americans in their homes and in their schools.

Today, Congress will do its part: Make a financial commitment of $1.1 billion to public broadcasting over the next 3 fiscal years 1994–96. I strongly believe, and the Telecommunications Subcommittee has clearly stated, that the public broadcasting community needs to match this financial commitment with a commitment of its own to expand service and resources to stations serving rural and minority audiences.

I want to commend the Corporation for Public Broadcasting [CPB] and the public radio community for undertaking a thorough review of all its radio grant programs. I appreciate the time and effort made by both CPB and National Public Radio [NPR] to see that my concerns about committing additional resources to rural and minority stations have been addressed.

The recommendations made by CPB's radio advisory committee will ensure that a significant portion of the increased funding provided to CPB under H.R. 2977 will be used for reaching underserved and unserved public radio audiences.

CPB's plans are to continue successful expansion grant programs, step, program acquisition, and sole service grants, increase funds to existing rural and minority sole-service stations, and provide additional funds for extending signals to hard-to-reach areas. The investment in these programs for fiscal year 1994 will be $5.7 million—more than the entire increase allocated to public radio for that year. I am pleased that the public radio community has made good on its personal commitment to me on these issues.

Specifically, CPB's program will: Increase the size of CPB grants for stations operating in exceptionally rural communities and for stations serving minority audiences; extend the reach of public radio programming by providing grants specifically for acquisition of national radio programming for satellite interconnected stations not currently receiving CPB support; and create a fund for stations extending their service to otherwise unserved listeners via repeaters, translators, and boosters.

Mr. Speaker, these initiatives are very important, and they will strengthen the Nation's public radio system. I look forward to the completion of CPB's review of its television grant programs, which is now underway, and hope that its recommendations will address many of these same issues.

I would urge my colleagues to support this bill. An aggressive Federal commitment to public broadcasting is needed now more than ever before. H.R. 2977 deserves the enthusiastic support of the full House.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 535, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on H.R. 2977, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2782, PROVIDING ERISA DOES NOT PREEMPT CERTAIN STATE LAWS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 536 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 536

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. Consideration of the bill, and amendments thereto, shall not exceed four hours. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 536 is the rule providing for consideration of H.R. 2782, which would amend the Employee Retirement and Income Security Act of 1974 to provide that the act does not preempt certain State laws.

This in an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

In addition to the 1 hour of general debate, the rule limits the time for consideration of the bill for amendment to 4 hours.

The Committee on Rules felt, after hearing testimony, that this restriction gives a fair and reasonable amount of time for a bill to which no amendments were offered in the subcommittee or the full committee, and especially since, as we all know well, we have a very limited amount of time before the end of the session to complete work on a large number of bills.

Finally, Mr. Speaker, the resolution provides for one motion to recommit.

Mr. Speaker, H.R. 2782 amends the Employee Retirement Security Act—popularly known as ERISA—to clarify that State laws in three specific areas are not to be included in the overall ERISA preemption of State law:

First, the issue of prevailing wages on State contracts; second, the establishment of minimum requirements and certification for apprenticeship; and third, the collection of certain unpaid contributions to pension plans.

Unfortunately, the admirable goal of ERISA to provide a uniform Federal standard for pension plans has had an unintended effect on some State laws. In passing ERISA, Congress never intended to interfere in such areas which are traditionally regulated by State governments and particularly those State laws protecting employee rights as well as benefits.

There have been several recent court decisions which the Committee on Education and Labor believes have gone far beyond the original intent of Congress, making it necessary in the committee's mind to amend the 1974 law and clearly state that these three situations are not preempted by the ERISA statute.

Mr. Speaker, as the Committee on Rules heard, this bill is not without controversy, and Members who are opposed to the bill or to any parts of it will, under this rule, have the opportunity to seek to amend it.

To repeat, House Resolution 536 is an open rule, and I urge its adoption so that we may proceed to the consideration of H.R. 2782.

□ 1320

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, the rule contains a 4-hour time limit for the consideration of the amendments. It is for that reason that this is a restrictive rule. It seems to me that my colleagues on the other side cannot seem to stop—occasionally they come out with this—stammering over the words "open rule."

I do appreciate the fact that the gentleman from Montana [Mr. WILLIAMS] did request a bipartisan rule. It came about doing due in part to a lunch we had downstairs in which we discussed the importance of trying to move in the direction of open rules.

It is unfortunate that the gentleman's subcommittee could not report out a bill that has the same kind of bipartisan support.

Unfortunately, the bill is another assault by the leadership on American business. At a time when our economy is struggling to create jobs under the weight of stifling Federal regulations, this bill will force small businesses to comply with an array of new State regulations. These regulations will, at a minimum lead to the likely elimination of employee health and pension benefits and, possibly, to the loss of more jobs.

It makes absolutely no sense, Mr. Speaker, to drive up the cost of labor when millions of Americans are desperately looking for work. The President's advisors are right to recommend a veto of H.R. 2782 unless significant changes are made. I hope very much these changes will be made in the amendment process.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I rise in support of this rule.

This legislation returns to the States that right to set standards for contractors on State public works programs, standards with respect to prevailing wages, apprenticeship, and training requirements.

In addition, the bill reinstates State laws authorizing mechanic liens and other tools for multiemployer plans to collect delinquent employer contributions.

A series of recent Federal cases have held that these laws were preempted by the Employee Retirement Income Security Act of 1974 which we call ERISA.

The bill that this rule brings to the floor has 165 cosponsors and generally enjoys bipartisan support.

At the urging of our minority members, the rule provides for an hour of general debate, 4 hours of debate on amendments; although I might point out that no amendments or substitutes were offered in either my subcommittee or the full committee markup.

As a result of concerns that were raised by some of my colleagues on the minority side at the full committee markup, however, agreed-upon language was incorporated in the committee report, and today I understand a perfecting amendment will be offered by the gentleman from Michigan [Mr. HENRY], which I expect we can support.

Mr. Speaker, many of my colleagues have come to me since I became chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor at the beginning of this Congress to express their concerns that ERISA's broad preemption of State law has had some un-

intended consequences, particularly in the area of health care. They have urged the subcommittee to reexamine what Congress did in 1974 when we passed ERISA.

I want to assure my colleagues that we have begun this process. There are several areas, including unfair claims practices, for health and disability claims, State-mandated benefits and multiemployer welfare arrangements [MEWA's], in which legislation is pending before the subcommittee that requires us to scrutinize carefully the broad sweep of ERISA preemption.

In some cases we may well conclude that while preempting State law was the correct approach, we nonetheless need a Federal law instead to deal with the problem. In others, we may conclude that a narrow exemption from ERISA is justified.

In either case, I anticipate that perhaps later this year or early next year this body will be considering other legislation addressing some additional preemption issues.

So I tell my colleagues that this bill relates to a rather narrow subject matter, exempting from ERISA's preemption provisions of State-prevailing wage, apprenticeship and training, and mechanics' lien laws.

Although there are other important preemption issues, we will have the opportunity to discuss and consider those things at a later date.

For now, it seems critically important to the millions of workers on State public works projects that this bill be passed with haste, without burdening it with unrelated issues.

Although I support this open rule, I am hopeful that my colleagues in both the discussion and the amending process will stick to the narrow and specific provisions which this bill intends to address.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1991

Mr. FORD of Michigan. Mr. Speaker, pursuant to rule XX of the rules of the House and by direction of the Committee on Education and Labor and the Committee on Post Office and Civil Service, I move to take from the Speaker's table the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, insist on the House amendment thereto, and agree to the conference asked by the Senate.

MOTION OFFERED BY MR. FORD OF MICHIGAN

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FORD of Michigan moves to insist on the House amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] is recognized for 1 hour.

Mr. FORD of Michigan. Mr. Speaker, I have no requests for time, and I yield back my time.

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Michigan [Mr. FORD] is agreed to.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Education and Labor, for consideration of titles I, III, and IV—except section 404—of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

Messrs. FORD of Michigan, CLAY, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, SAWYER, and PAYNE of New Jersey, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mrs. MINK, Messrs. OLVER, PASTOR, GOODLING, and PETRI, Mrs. ROUKEMA, and Messrs. ARMEY, FAWELL, BALLENGER, BARRETT, BOEHNER, and EDWARDS of Oklahoma.

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference:

Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, Messrs. SIKORSKI, ACKERMAN, GILMAN, and MYERS of Indiana, and Mrs. MORELLA.

From the Committee on House Administration for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

Mr. CLAY, Ms. OAKAR, and Messrs. GEJDENSON, THOMAS of California, and ROBERTS.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PROVIDING THAT ERISA DOES NOT PREEMPT CERTAIN STATE LAWS

The CHAIRMAN pro tempore. Pursuant to House Resolution 536 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2782

The Chair designates the gentleman from Ohio [Mr. ECKART] as Chairman of the Committee of the Whole and requests the gentleman from Texas [Mr. ANDREWS] to assume that chair temporarily.

□ 1336

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, with Mr. ANDREWS of Texas, Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. ANDREWS of Texas). Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule the gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2782, this bill that restores to the States their traditional right to prescribe rules for State public works contractors in the areas of apprenticeship, training, and prevailing wages. These long-established rights have been wiped out by a series of recent Federal court decisions interpreting the Employee Retirement Income Security Act of 1974 [ERISA] as preempting State laws.

As New York State's commissioner of labor pointed out at a subcommittee hearing last year, the effect of the court decisions is particularly troubling—they repudiate the ability of States to set the terms of their own contracts—contracts in which the money being spent is State money and the projects being done are State projects.

In addition, State laws have provided additional tools for multiemployer plans to collect delinquent contributions, including mechanics' liens, bonds, or other types of security. Recently, with the approval of the Supreme Court, courts have interpreted ERISA to preclude the States from enforcing these laws as well.

H.R. 2782 restores States' rights in these critical areas and is strongly supported by the National Association of Governmental Labor Officials [NAGLO], and the National Association of State Apprenticeship Directors [NASAD], the National Electrical Contractors Association, and the Building and Construction Trades Department of the AFL–CIO.

When the Subcommittee on Labor-Management Relations, which I chair, held its hearing on the bill last year,

considerable debate took place about whether Congress intended to preempt the types of laws affected by this bill. At both subcommittee and full committee markup, that debate continued.

There is no question that the scope of ERISA preemption is broad—all laws that relate to employee benefit plans. But at the same time, several types of State laws were expressly saved from preemption, including State insurance, banking, and securities laws. In addition, since 1974, Congress has amended ERISA to allow States to regulate multiple employer welfare arrangements [MEWA's] and, in recognition of the States' traditional role over marital property, excluded from ERISA preemption qualified domestic relations orders issued by State courts.

I was not around when ERISA was passed. I cannot read the minds of those who shaped its provisions. But I can say this. There is not one word in the legislative history of ERISA that could lead one to conclude that Congress affirmatively intended to strip States of their longstanding power to determine what terms and conditions a contractor who voluntarily bids on a State public works project must meet.

Nor is there any support in the legislative history for the proposition that State laws authorizing mechanics' liens, surety bonds, and other collection tools should not apply to the delinquent contribution obligations of companies who participate in multiemployer plans. In fact, when ERISA was amended in 1980 to establish a Federal collection mechanism, the legislative history of the Multiemployer Pension Plan Amendment Act of 1980 specifically discussed this new Federal tool as an addition to current State protections.

If the framers of ERISA, in their zeal to protect employers from inconsistent State regulation of benefit plans, actually did think about these particular situations and really did intend to block these State laws, then Congress was wrong and it is time to change the law. H.R. 2782 simply recognizes that ERISA should not interfere with well-established and traditional areas of State concern such as apprenticeship training, prevailing wages, and mechanics' liens.

I have heard a lot of hyperbole about what this bill would do to the Federal regulatory scheme established in ERISA. Do not believe it.

First, H.R. 2782 would not allow broad State mandates to be imposed on all contracts or all plans. The bill deals only with a very specific and narrow type of State law—State prevailing wage laws applicable only to contractors who successfully bid on publicly financed or publicly assisted State or local projects. These laws do not affect all employers—only the ones who voluntarily bid on public works projects.

Second, H.R. 2782 would reinforce and strengthen the longstanding role of the States in apprenticeship and training, and would not, as critics argue, stifle innovation and undermine the expansion of these programs. Although ERISA includes apprenticeship and other training programs as a form of employee welfare benefits, the substantive rules governing these programs are actually provided for under another Federal statute, the National Apprenticeship Act, also referred to as the Fitzgerald Act, that was passed back in 1937. Consistent with the regulatory scheme established in the Fitzgerald Act, 28 States have been chosen to regulate apprenticeship through State apprenticeship councils, using State-appropriated funds. In each case, these State programs have been approved by the Department of Labor. So the State laws at issue in H.R. 2782 are part of a 55-year-old Federal-State partnership.

Finally, H.R. 2782 would, as its opponents claim, overturn the current situation in which a single uniform remedy for collecting delinquent contributions would be utilized. But you see that is the point. Prior to Federal preemption of State law, multiemployer plans had access to a variety of collection remedies, including mechanics liens laws—some of which by the way have been around from the 19th century—and so-called little Miller Acts which provide for collection through contract bonds or surety bonds. More than one type of collection mechanism is necessary since the needs of the plan vary industry to industry. For example, the building and construction industry is characterized by thousands of relatively small, mobile employers who work on short-term projects and who can easily go out of business or simply disappear. The ERISA remedy for delinquent contributions; that is, suing the employer and trying to collect a money judgment after the fact, simply does not work in most cases. The purpose of the bill is to restore long-standing State remedies that have been invaluable as a collection tool for multiemployer pension, health, and welfare plans.

In conclusion, Mr. Chairman, I want to point out that the State laws that are restored by its provisions affecting apprenticeship, training, prevailing wages, and mechanics liens and surety bonds are of vital importance to the workers of America. We must act swiftly to restore these protections that the courts have taken away. I urge a "yes" vote on H.R. 2782.

Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today in connection with H.R. 2782 we take up a subject that stands as a pillar of this Nation's voluntary employee benefit system. This pillar, erected in 1974 at the enactment of ERISA, the Employee Retirement Income Security Act, is the preemption of differing and inconsistent State benefit laws which can stifle the adoption and expansion of pension, health, training, and other ERISA benefit plans.

The provisions of H.R. 2782, as reported by the Committee on Education and Labor, will severely weaken the preemption foundation which our former colleague and coauthor of the 1974 legislation, Representative John Erlenborn, has called the keystone of ERISA. Most of us were not present at ERISA's creation, but we must not lose sight of the important principles involved. This is the lynch pin.

Since pension and welfare benefits are generally based upon a voluntary system, ERISA preemptions has retained the freedom for employers to establish uniform benefit plans across State lines. In this atmosphere free from myriads of State laws, employees through collective bargaining and other means can also pursue their common objectives and achieve multistate benefit portability.

Let me tell you why H.R. 2782 will turn the clock backward. Back to pre-ERISA days when union plans and employers with multistate operations were faced with the prospect of being required to meet conflicting, and therefore, costly requirements. Then, as now, the only viable option to avoid a drastic reduction in benefits was to allow the preemption of the pension and welfare benefits filed by the Federal Government.

FIFTY STATE BENEFIT LAWS ALLOWED IN GUISE OF PREVAILING WAGES

The bill's first assault on the ERISA preemption pillar is the provision which exempts from ERISA preemption "any State law providing for the payment of prevailing wages." Because the term "prevailing wages" is not defined, the scope of the State laws exempted from ERISA is not limited to traditional programs setting wages in connection with public works projects. In addition, it is clear from a plain reading of this provision that the exemption may apply to "any state law" regulating, or otherwise affecting, an ERISA employee benefit plan with the only condition being that such a law also provide for the payment of prevailing wages.

Because of the breadth of this language, the exemption goes significantly beyond that needed to merely reverse the narrow set of court decisions which proponents claim is the intent of the provision.

It should be well understood that the courts did not preempt prevailing wages per se, but only the portion under which the State or locality misused their laws to regulate ERISA employee benefit plans. In addition, both the minority and majority portions of the committee report are in agreement

that what might be called benefit neutral prevailing wage laws are not intended to be preempted by ERISA. During the amending process, I will support the efforts of my colleague, Representative HARRIS FAWELL, to make this point clear under ERISA.

But this means that we should declare dead on arrival the broad loophole in preemption that is created by the loose language of this bill. In the guise of prevailing wage laws, the bill would allow States to negate ERISA by mandating specific ERISA benefits or by even mandating that all employers in a State establish or contribute to a specific pension, health, or other ERISA plan. Whether intended by the sponsors or not, this could open a Pandor's box in which States could enact their own mininational health insurance laws or minipension laws including competing plan termination insurance programs like that administered by the PBGC under title IV of ERISA.

It is hard for me to believe that the proponents intend for ERISA to be stood on its head like this. Especially since, in testimony before our committee, the head of the AFL–CIO Building and Construction Trades Department stated:

> Since ERISA's enactment we have remained staunch defenders on broad preemption. On balance, employee benefit plans, plan participant and plan sponsors have been well-served by the exclusive Federal regulatory scheme for employee benefits.

Hopefully, in the end, all of us in this Chamber can agree to clarify ERISA without destroying it.

BILL JETTISONS NATIONAL APPRENTICESHIP PLANS AND STIFLES EXPANSION

The second provisions, like the first, carve out a preemption loophole, this time for "any State law * * * establishing minimum standards * * * [or] regarding the establishment, maintenance, or operation of apprenticeship or other training programs."

The bill's exception to ERISA preemption for apprenticeship programs goes significantly beyond that need to merely reverse the Hydrostorage and several other court decisions which proponents say is their intent. Since apprenticeship or other training programs are specifically defined as "employee welfare benefit plans" under ERISA, the courts have determined in these decisions that ERISA preempts the several State laws, rules, regulations, and administrative orders involved.

I want to stress, however, that these decisions do not jeopardize the many aspects of the apprenticeship programs now operating in the States. To the contrary, the courts have gone to great lengths to limit the reach of preemption only to instances in which the state laws have clearly mandated specific plan operations or mandated that employers participate in a particular plan.

In contrast, by going beyond the Hydrostorage decision, the reach of the bill's exception to preemption would allow States to regulate not only appenticeship and training programs connected with State public works projects, but also any training program of any employer. While such State laws are now typically limited to construction-related occupations, the broad language of the bill leaves an open invitation for States to extend their jurisdiction to occupations under other single and multiple employer plans, whether union or nonunion.

If the intent of the bill were merely to overturn the Hydrostorage decision, then its scope would be limited to programs relating to public works projects. In Hydrostorage, California had adopted State apprenticeship standards which required construction employers on publicly funded work to participate in and contribute to a particular union apprenticeship program, and the State further established the manner in which such participation and funding would take place. The California law required Hydrostorage to apply to a union apprenticeship committee for permission to train apprentices and to sign an agreement to train its apprentices solely in accordance with the union apprenticeship program. The court of appeals acted to invalidate the State law because it required construction contractors on public works projects to become bound by a specific apprenticeship plan. The State law went beyond the traditional realm of setting minimum State apprenticeship standards by requiring direct contractor participation in and contribution to specific apprenticeship plans.

As with other benefits under ERISA, these kinds of varying State laws will stifle innovation, increase the hassle and costs of setting up such programs, and, ultimately, reduce the number of programs. At a time when all agree that worker training is crucial, this change would be a serious mistake. In its report "Workforce 2000," the Federal Government predicts the loss of American jobs to foreign workers caused by a critical shortage of trained and skilled U.S. craft-workers. Attempting to encourage more training by the private sector, the Federal Bureau of Apprenticeship Training [BAT] will approve apprenticeship programs even if a State program will not, if the Federal BAT feels that the State's disapproval is unjustified. Thus the very ERISA apprenticeship and training programs used by employers to maintain their qualification under Federal Davis-Bacon projects could be disallowed for any other training purposes under more restrictive State laws.

I would also like to point out that any State or local government regulation or involvement in ERISA apprenticeship or training programs is not preempted, if they are otherwise authorized under other Federal legislation. Therefore, it should be understood that so-called school-to-work transition programs, often referred to as "youth apprenticeship programs," would not be affected by ERISA preemption because, in general, such initiatives would not rise to the level of an "employee welfare benefit plan" as that term is defined under ERISA.

Finally, it is important that we recognize that State laws would take precedence over the ERISA fiduciary standards requiring the prudent investment of trust funds and the operation of apprenticeship and training plans for the exclusive benefit of participants and beneficiaries. I know of no reason, and no reason has been stated, why the States should be given license to overturn ERISA or impose fiduciary duties on such plans which conflict with the ERISA requirements.

LOOPHOLE FOR CONFISCATORY REMEDIES

In a manner similar to the prevailing wage and apprenticeship provisions, the bill's exception to ERISA preemption for collection remedies goes significantly beyond that needed to merely reverse the Iron Workers and related court decisions relating to so-called mechanics' lien remedies.

In an unprecedented manner, the bill exempts from ERISA any State law providing means for collecting multiemployer plan contributions. These could be criminal or civil laws which could be made to apply not just to delinquent employers, but to any third party as well; for example, property owners and contractors could be made liable for the delinquencies of subcontractors.

There is no requirement under the amendment that third parties be assured of due process or even advance notice of the potential for liability. Such laws could even take a form requiring the bonding of contributing employers or third parties, in advance of a contributor incurring actual contribution obligations. Such remedies would impinge upon the carefully balanced funding standards applicable to multiemployer plans under ERISA.

CONCLUSION

As I've discussed, the provisions of H.R. 2782 are not limited to overturning a few court decisions which upheld ERISA's preemption of intrusive and inconsistent State laws regulating employee benefit plans. Instead, in its present form, H.R. 2782 will extend broad powers to the States to negate the uniform regulation of employee benefit plans under ERISA by mandating benefits, controlling employee training, and imposing unfair remedies.

This shredding of the uniformity and predictability of ERISA regulation will severely impair the ERISA preemption keystone which has served our Nation well for nearly 18 years. With America's workers and employers facing the

competitive pressures of the global economy, now is not the time to discourage the establishment and maintenance of plans under our voluntary pension and welfare benefit system.

Therefore, I urge my colleagues to support the efforts of Representative HARRIS FAWELL and myself to construct a bill which will reinforce the pillar of ERISA preemption.

□ 1340

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, this bill was indeed an intricate one and a troublesome one, but I do believe that there will be a Henry amendment coming along which will at least eliminate, probably, two of the more contentious issues that we have before us. This bill of course, as has already been indicated, is a bill which exempts from ERISA certain preemptions which have been there for 18 years. I am going to just center on what I believe will be the prime issue here, and that is in reference to the ERISA preemption of certain employee welfare benefit plans over the last 18 years known as apprenticeship and other training programs.

□ 1350

A lot of people were not aware that for the last 18 years ERISA has had jurisdiction over employee welfare benefit plans, including apprenticeship programs, and there have been no problems of which I was aware until such time as a case occurred in California called the Hydrostorage case. Very simply, the Hydrostorage case was a case whereby a contractor, a multistate contractor, came to California; he had a contract for a public works project, but under the law of California, via the councils that actually represent the Federal National Apprenticeship Act, he was told that he was not going to be able to get that contract which had been awarded to him "unless you go along and you sign into a union apprenticeship contract."

Now, he happened to be a nonunion employer. It also dictated, of course, all the terms and conditions of that apprenticeship agreement. The Hydrostorage people said, "Well, that isn't right. You have got a Federal law here, ERISA, which you obviously are breaching because clearly under the preemption of ERISA anything that relates to an employee welfare benefit plan by State law or county law or local law is preempted." And I think they also might have said that there is another Federal law, the Fitzgerald Act, which is a national apprenticeship act going back to the year 1937 which sets forth guidelines for apprenticeship programs. I do not think they have ever set forth guidelines that would say you have got to join the union in order to be able to get a contract. Maybe somebody wants to educate me on that statement.

But this man, being kind of feisty, said, "Well, I am going to take you to court. I think you are wrong." He did, and he won. He won the case.

In that particular case the court said, "You can't do something like that. Obviously, this is an employee welfare benefit plan. It has been an employee welfare plan for 18 years. Nobody has tried to do this kind of stuff before. Why are you?"

So they ruled in favor of Hydrostorage. So I submit that this bill was brought to Congress in response to failures, not the failure of ERISA but rather failures which occurred in organized labor in the marketplace. With less than 21 percent of all construction workers belonging to unions, organized labor is running scared and running straight to Congress, to their good old friends in Congress to rescue them. They always do, on that side of the aisle, and you are proving to be consistent, even though wrong. Today over 70 percent of the construction performed in the United States is being performed by open-shop construction firms, the unions have lost in the marketplace. To gain a competitive edge in public work projects, the unions sought to deny openshop contractors and their employees access to registering apprenticeship programs, which they must have before they can get Davis-Bacon work or Little Davis-Bacon work.

Consequently, for them to be competitive, when their efforts to manipulate the State apprenticeship council approval process in five States unions were stymied by the unions, the court which said to the union people, "Oh, you can't do things like that," and all the unions came to Congress to see their cousins.

Just last week this body amended the supplemental appropriations bill to prohibit the Department of Labor from revising the apprenticeship regulations, and without consideration for the need for revisions to improve and strengthen the apprenticeship system, this House, true to its rescuing of Labor, voted to block the Department of Labor from ever revising a regulation.

If we need improved apprenticeship regulations, the improvement should be implemented, I think, uniformly at the Federal level, not independently in each State and each locality. I do not mean to say that there has to be a complete recitation of what you have to live up to, but the guidelines ought to be given here, and competitors, people who have to compete in this Nation, ought not to have to worry about what county and what city or what State they happen to be in, because there they are going to get you; depending on who has the upper hand there, they are going to get either the union view or the nonunion view. Right now at least you can always go to DOL and say, "Hey, I can't get in in California. They won't let me, but will you please approve my apprenticeship plan? It beats all your guidelines."

Now we are throwing all of that away. I hope those Members who are listening back in their offices will look long and hard at what is trying to be accomplished by organized labor here.

Mr. WILLIAMS. Mr. Chairman, before yielding time to my colleagues, I yield myself such time as I may consume to say this:

I just want to respond to the gentleman from Illinois, who seems to have a visceral dislike for the fact that, under both State and Federal laws, workers in this country have a right to organize and bargain collectively if they so choose.

There is nothing, I say to my colleagues, in this bill before us which empowers workers to do that or, once they have done it, which empowers their unions. With this legislation, we simply return the authority to the States and allow State law to be the determinant with regard to various agreements, but we do not herein, as indicated by the gentleman from Illinois, empower unions to do anything. We simply allow State laws to be primary.

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to thank my friend, the gentleman from Montana, for yielding me the time, and I rise in support of this bill.

I am not sure that this is what would be called a simple bill, but it seems to me it is a righteous bill. It seems to me it has the correct spirit and the correct goal, which is to protect employees and to protect their pension rights.

If I understand this bill correctly, the bill would basically say that in the cases of State prevailing wage, employee benefit program, and fringe benefit programs and in the case of State apprenticeship and training programs and where mechanics' liens are used under State laws to make sure that payments are made by contractors for the various employee health, welfare, and pension programs, in those cases ERISA, the Employment Retirement and Security Act, would not be used to preempt those State laws. I think that is very salutary.

I would like particularly to concentrate on the aspect of mechanics' liens. I remember years ago when my father was alive, when he had a small company, and when periodically contractors for whom he dealt and worked did not pay him. My father sometimes would have to invoke a mechanics' lien. He was a tile setter, a terrazzo worker, and he would then put a lien

on that property which guaranteed him ultimately some type of payment for the work he did and for his materials.

If I understand this correctly, a mechanic's lien in certain States is permitted to be used not just for subcontractors who are not paid by their contractors, but where the employees are not themselves paid or where the pension and benefit contributions that the contractors have agreed to pay are not paid into the program.

It just seems to me that we ought to continue the use of these State mechanics' lien laws of their guarantee to the employee an opportunity to make sure that his or her pension plan is properly funded.

Mr. Chairman, there will be a lot of debate today on this subject, but I certainly support the bill, and I thank the chairman of the subcommittee for the time.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. BALLENGER], also a distinguished member of the committee.

Mr. BALLENGER. Mr. Chairman, let me just say, first of all, that there will be some positive changes made in this bill by amendment, but the apprenticeship parts of this bill are still bad.

Let me also say that workers have the right to not unionize if they so wish. At the present time, if a unionized State such as California has control of the State apprenticeship program under unions, then open shops can be precluded from having an apprenticeship program.

□ 1400

The only appeal from this is under ERISA in the courts. This bill does away with that appeal.

Mr. Speaker, I would like to give an example of a fellow who tried.

Walther Electric is located in California. In 1966, the owner attempted to enroll employees in an apprenticeship program at the local community college. The unions ran the program and did not allow the nonunion employees to participate.

In 1976, Walther received a tentative approval to train apprentices. However, they could not train their own employees because they were nonunion.

In 1983, Walther wrote letters to the State apprenticeship council and the Governor. They did not receive any responses, and every job site they worked on was picketed.

In 1985, Walther started a private training program, but did not receive any credit for their program on public works jobs.

In 1986, Walther designed an apprenticeship program identical to the union program and filed an application for acceptance.

In 1988, Walther's program was accepted and the unions appealed. Walther's apprenticeship program approval was denied after the appeal. Walther worked with the California Department of Apprenticeship Standards in amending the program so that Walther's program had all the same rates as the unions. They were still denied acceptance for their program.

In 1990, Walther submitted their program for approval to the Bureau of Apprenticeship Training with the U.S. Department of Labor. In 2 to 3 weeks the bureau approved Walther's program for Federal work. However, the State program would not approve Walther's program for State work.

In 1992, Walther has a lawsuit in the California Court of Appeals to force the State program to approve their program through the ERISA preemption.

The present law has been used to protect open shops in Nevada, three times in California, and in Minnesota, and has been supported by the Supreme Court.

Without the ERISA preemption, union run State plans can make this a precedent to private employment. Union run apprenticeship programs could mandate registered apprenticeship for all State public construction, but also eventually private work as well, with no appeal.

Mr. Speaker, this is a bad law. Support the Fawell amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I take this time for the purpose of entering into a colloquy with the gentleman from Montana [Mr. WILLIAMS].

Mr. Chairman, I would like to make the House aware of a serious problem recently brought to my attention which has arisen despite the Multiemployer Pension Plan Amendments Act of 1980 and the Employee Retirement Income Security Act of 1974. The underlying assumption for the success of multiemployer pension plan participation is that, throughout the life of the plan, new employers will join and the number of employees covered will grow at least to the level of participants who retire. In the agricultural industry, however, this has not been the case. There have been disincentives for employers to stay in plans in this industry. Due to changes in industry, reductions in plan participants, overall unfunded liabilities, and insufficiency of collecting withdrawal liabilities, small multiemployer pension plans are facing significant losses. These plan participants are being subjected to contributions now skyrocketing to unfeasible levels. While the 1980 act includes exemptions to cover those employers that meet certain criteria for plans undergoing reorganization, the exemptions available are limited in scope. For struggling plans that do not qualify for these exemptions, there is no alternative but to turn over their assets to the already troubled Pension Benefit Guarantee Corporation.

Where cooperative efforts exist between unions and management, all means should be examined to identify areas where exemptions can be applied to assist plans that wish to remain viable and to prevent bailout by the Pension Benefit Guarantee Corp. There is a strong need to look both at the exemptions under title IV of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to determine whether further relief is possible for adjustments in accrued benefits under plans undergoing reorganization that do not meet current exemption criteria. I would ask the chairman to address the possibility of committee oversight and examination of the exemptions under the Multiemployer Pension Protection Amendments Act to address such situations.

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield, as the gentleman from California [Mr. PANETTA] knows, my committee and I are pleased that the gentleman has brought this matter forward to us. We understand that the gentleman has valid and just concern. Clearly, the considerable changes in the economy since the enactment of the Multiemployer Pension Protection Amendment Act of 1980 and the conditions mentioned by the gentleman, warrant an examination of the effects of the act and may warrant a full examination of the possibility of adjusting for exemptions for plans that are becoming insolvent. I will urge my colleagues on the committee to further look into the concerns of the gentleman from California [Mr. PANETTA] and others.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY], also a member of the committee.

Mr. HENRY. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, let me first of all express my appreciation to the gentleman from Montana [Mr. WILLIAMS], who has outlined some of the legislative history of this bill and the need for it. What has happened is that the ERISA preemption has come through various circumstances into conflict with ERISA's preemption provisions, with historic practices relative to State Davis-Bacon laws on public projects, into conflict with long established State practices relative to collection remedies, and likewise come into conflict with provisions pertaining to apprenticeship councils in apprenticeship programs in various States.

I agree that in these three discrete areas, remedy is needed. For that I commend the gentleman from California [Mr. BERMAN], who has taken the lead on this and worked very, very hard to bring this bill through committee and to the floor.

I also want to state my strong agreement, however, with many of the con-

cerns which were articulated by the gentlewoman from New Jersey [Mrs. ROUKEMA], who I think has cited some of the problems with the bill as it was reported from committee.

However, I think we should make clear that during our committee deliberations it was agreed upon that certain amendments would be made in order and supported likely by both sides, which would try to refine the scope of this act.

Mr. Chairman, I would simply like to point out for those Members listening to this debate that I think by the time we have approached final passage, in all likelihood the range of concern, the range of division, the range of debate, will have been significantly narrowed, and that very shortly when we are opening the bill to amendment I will have an amendment which addresses to the best of my knowledge in whole the concerns that have been raised relative to the public-private issues on extending ERISA in terms of mandating benefits, and also fully addresses the problems relative to remedy collections.

It is my understanding that we will have very clear delineation as to what is involved there because of the importance of the issue, and then that will narrow the questions before us to issues pertaining to State apprenticeship councils.

Mr. Chairman, I think for purposes of trying to help Members who are watching this by way of our communications system, to be aware of the fact that very quickly I believe much of the range of differences in the committee will be narrowed.

The CHAIRMAN pro tempore (Mr. ANDREWS of Texas). The gentlewoman from New Jersey [Mrs. ROUKEMA] has 9 minutes remaining, and the gentleman from Montana [Mr. WILLIAMS] has 16 minutes remaining.

Mrs. ROUKEMA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING], the ranking member on the full committee.

Mr. GOODLING. Mr. Chairman, I rise to speak in opposition to the content of H.R. 2782 as currently written. This bill was not amended in subcommittee or full committee, because the proponents were unwilling to address the serious concerns that were then expressed about its far-reaching effects.

First, the bill oversteps the stated intentions of its authors. It would seriously weaken ERISA's preemption cornerstone by creating a loophole for States to mandate health, pension, and other welfare benefits. The breadth of the "any law" language in the bill would permit States, in the guise of prevailing wage laws, to subvert ERISA by mandating specific ERISA benefits or by even mandating that all employers in a State establish or contribute to a specific pension health or other ERISA plan.

Because the term "prevailing wages" is not defined, the scope of the State laws exempted from ERISA is not limited to traditional programs setting wages and benefits in connection with public works projects. This lack of restriction on the "any law" language would permit State laws to regulate ERISA employee benefit plans in the context of private contracts or employment as well as State and local public works.

The Congressional Budget Office [CBO] estimates that the bill could increase the cost to the Federal Government under Davis-Bacon projects and federally assisted construction projects where the Federal Government provides States with matching funds. The prospect of increased Federal costs should give all of us reason to be cautious not to pass this bill without thoroughly correcting its many flaws.

Flaws are also exposed in the bill's section giving States wide latitude to erect new multiemployer plan collection remedies. We should all be concerned that this reckless language could result in overturning the collection remedies for withdrawal liability which were carefully crafted in 1980 under the Multiemployer Pension Plan Amendments Act.

The bill also creates a loophole which would limit employer training and apprenticeship programs. The laws in at least one State already prohibit parallel apprenticeship programs to coexist. In addition, because of the broad language in the bill, existing State laws could be expanded to establish education and training standards that the programs of all employers must meet.

Since we are speaking about training programs, let me make one point perfectly clear. The point is that school-to-work transition programs, which we often refer to as youth apprenticeship programs, are not affected by ERISA preemption. This is because such programs do not rise to the level of an employee welfare benefit plan as defined under ERISA. Even if they did, there is a specific provision exempting federally related programs from ERISA preemption. Under ERISA section 514(d), it states that nothing in ERISA shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States. Therefore, any apprenticeship or training program authorized under Federal law, even if it involves a State-based program, is unaffected by ERISA.

Since a major purpose of ERISA is to create an environment in which employers are encouraged to establish employee benefit plans, an environment in which cost savings can be achieved through uniform plan administration, it just does not make sense to throw overboard ERISA apprenticeship and training programs. Rather than facilitate savings in order to promote the extension of training and apprenticeship programs, this bill will promote bureaucracy and stifle the freedom to negotiate training benefits which employers and employees now have under the ERISA preemption doctrine.

I urge my colleagues to see the importance of ERISA in promoting and protecting the benefits that American workers now enjoy.

Unless H.R. 2782 is significantly improved, it should be defeated. I look forward to reviewing these changes.

□ 1410

The President will be encouraged to veto the bill in its present form by the Secretaries of Labor and Health and Human Services. I hope my colleagues will pay careful attention to amendments that will be offered by the gentleman from Illinois [Mr. FAWELL] and the gentlewoman from New Jersey [Mrs. ROUKEMA].

I think the bill could be improved on the floor and we could have something that would help workers rather than harm and hinder workers, which I believe, the way it is presently written, this legislation will do.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

I do want to note, in a response to the gentleman from Pennsylvania, who just spoke, that I listened with some care to what he was saying. The gentleman raised some interesting points.

But what the membership needs to understand is that there were no amendments offered to this bill in either the subcommittee or the full committee level. Members that came forward to us with amendments, such as the gentleman from Michigan [Mr. HENRY], have been satisfied that their amendments have been worked out. And if I understand the amendment of the gentleman from Michigan [Mr. HENRY], we will be accepting it here on the floor.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I will be speaking later on this subject, but I just think in the wake of the comments of the gentleman from Pennsylvania, it is important to note, he raised essentially three objections to this bill.

One was a belief that this bill extended to cover purely private projects. The gentleman from Michigan has pointed out that he will have an amendment which addresses that subject and that it will no longer be an issue.

Second, he raised the issue of mandating specific kinds of fringe benefits. The gentleman from Michigan will be offering an amendment, which the majority and the committee and sub-

committee will be supporting, which will eliminate that issue. That eliminates two of the three issues referred to by the gentleman from Pennsylvania.

On the third issue, the gentleman made reference to, he hates to see ERISA apprenticeship programs overthrown by this bill. I, for the life of me, do not understand what that means. What is an ERISA apprenticeship program? What kind of apprenticeship program that now exists would be overthrown by this bill?

I would suggest there are no apprenticeship programs now in effect.

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, having lost many jobs in the steel industry and having seen many of our pensioners come up and just read the paper someday where there just are not the funds in those pensions and people have been able to, in essence, really steal some of that pension money through a lot of technical, legal ways in which they can never be indicted for or held accountable for, I was concerned about one area of this particular law. And I am going to ask the committee to work with me and maybe even hold hearings on this.

I have it in the form of an amendment today, but I would have not offered that amendment if the respective sides would not have been willing to accept it. And the fact is, there is a question on whether or not it would be germane.

But we allow up to five waivers for cause by the Internal Revenue Service on contributions by companies who are hard pressed, five annual waivers. And they usually, in the economic climate that we have now, have good grounds to justify these waivers and we find ourselves 5 years down the road with pension accounts that are underfunded.

The Government is sitting and looking at massive liability. And I want to see us change that to where the companies make quarterly reports to their beneficiaries. They are already making a quarterly contribution, but I want to see us limit and restrict the waivers on these IRS requests to no more than five quarterly waivers in any given 2-year period.

Within a 2-year period, we should be able to ascertain what are the financial prospects of a company before we let them go the gambit of 5 years. The Government is picking up the tab and, in many cases, most of these pension plans are underfunded.

I would like to know, if I could have a colloquy with the distinguished chairman of the subcommittee, Mr. Chairman, I would like to know if it is possible that this matter in the form of legislation I have introduced could be addressed and a hearing could be held to look at the strength of these pension plans and how these restrictions on an annual basis for these waivers might perhaps be a tell tale sign that we could more readily ascertain at a more expedient date, No. 1, and, No. 2, maybe work something out legislatively to soften that blow.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, the gentleman brought this amendment forward to us. It appears, as the gentleman indicated in his earlier remarks just a moment ago, that the amendment appears not be germane to this act, but the gentleman's comments are germane to the issue before us.

Our subcommittee has, not just under my chairmanship but previously, given a lot of concern to the very issue, both specifically and generally, that the gentleman raises. I appreciate his bringing it again to the attention of the full House and assure the gentleman that both the subcommittee and the full committee recognize the problem that the gentleman brings to us, that we know full well that many thousands, if not millions of workers in the United States are in great concern that their pension fund may not be secure.

Therefore, my subcommittee will, of course, continue to focus on the issue the gentleman brings to us.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman. I appreciate those comments. And in discussing it with other Members in the Congress, I believe the staff of the gentleman's subcommittee is probably the most knowledgeable and learned in this particular field.

I do not know if my particular approach might even be the best, but I believe the spirit and intent of what I would like to accomplish is absolutely very important.

I do not know if I heard any answer to that question. I would like to see the committee at least hold a hearing on this. I would like to be able to work with the staff and have my staff work with the committee staff and see if we can get some results.

I say to my colleagues, I think this is a very important issue, one that we should be concerned with. We have tremendous exposure to the taxpayers in these areas, and we might not only soften the blow on our workers but take some of the ripoff off our taxpayers.

□ 1420

Mr. FAWELL. Mr. Chairman, I ask unanimous consent that, in place of the gentlewoman from New Jersey [Mrs. ROUKEMA], I be allowed to continue to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. FAWELL] has 4 minutes remaining.

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, we have debated many pieces of business legislation, but the bill we are about to consider may be the most important one. In 1974, Congress recognized the value of having one set of regulations govern employee benefits. That is why Congress enacted the Employee Retirement Security Act of 1974, better known as ERISA. It was the clear intent of those who wrote this law to preempt all State and local regulations that relate to employee benefits. The measure we're about to consider, H.R. 2782, would create broad exceptions to the ERISA preemption, signaling the beginning of the end of the voluntary private benefit system.

As other speakers before me have mentioned, ERISA was created to end the problems companies faced when operating employee welfare plans across State lines. The advantage that ERISA offers both employers and employees is the ability to administer benefits under one set of rules. ERISA allows companies as large as General Motors or as small as the one I own, which has only six employees, to provide such diverse benefits as health coverage, profit sharing, and day care under the same set of regulations. The predictability of ERISA has allowed for the development of such diverse benefits, while at the same time lowering administrative costs of providing employee welfare plans.

H.R. 2782 would carve out exceptions to the broad preemptive power of ERISA under the guise of prevailing wages and apprenticeships. If these exceptions are allowed to become law, companies that operate in different States will find their employee benefits subject to 50 different State laws. For example, the bill exempts under ERISA, "any State law providing for the payment of prevailing wages." Because the term "prevailing wages" is not defined in the bill, the States would not be limited to the traditional definition of prevailing wage statutes. Creative legislators will seize on this and begin to mandate employee benefits under prevailing wage provisions.

As a former member of the Ohio House of Representatives, I know that there are legislators in State houses all over the country that would love to see the ERISA preemption abolished. Many States are facing horrible fiscal problems, and employee benefits would be a tempting source of revenues. Social legislation that the States could never afford to pay for would be forced onto companies in the form of mandates.

If Congress were to enact H.R. 2782, it would be an open invitation to the

States to enact mandates, regulations, and taxes on employee welfare plans. Rather than face 50 different sets of regulations, companies will take the only rational course—they will drop their employee benefit and pension plans.

For 18 years, ERISA has served both employers and employees well, by creating a national framework for workplace benefits. ERISA does not determine what employee benefits should be. Rather, it creates a set of rules which allows workers and management to determine what types of benefits best fit the needs of each. Proponents of H.R. 2782 are using three Federal court cases—all of which were decided correctly—to begin a process that would destroy the current employee benefit system.

H.R. 2782 represents part of the overall trend of legislation considered by this Congress. The liberals who control Congress have passed bill after bill which undermine the ability of our Nation's business sector to compete against foreign competition and create jobs.

Examine just the legislation that has come out of the Education and Labor Committee—ADA, the Civil Rights Act, parental leave, OSHA reform, striker replacement, electronic monitoring, and now ERISA preemption. All add billions of dollars to the cost of doing business—billions that could have been invested in new plants, equipment, and other job creating activities.

These bills are just a small part of the regulatory agenda offered by the liberal majority in Congress. There's the Clean Air Act, FIFRA, RICRA, the so-called banking reform—the list is endless. Add in the 1990 budget agreement, which contained the largest tax increase in history, along with the various State and local tax increases, and it's no wonder our economy is not growing. All available capital is being used to comply with Government regulations and pay taxes.

ERISA is one Federal law that is working, and that is the problem. The liberals who run Congress and their special interest friends do not like the outcome of this law, because it prevents them from enacting their social agenda on the private sector. Instead of serving inside-the-beltway special interests, ERISA serves the best interests of both employers and employees. Rather than take this destructive step, I want to urge my colleagues in the House to oppose H.R. 2782.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 2 minutes, the balance of the time.

Mr. GRANDY. Mr. Chairman, ERISA is one of the more complicated areas of law we in Congress deal with. More often than not, it is an area that is willingly left to actuaries and fiduciaries to ponder. But there is one area of ERISA that is unambiguous and extremely easy to understand and that is the area we are debating today—the ERISA preemption.

Section 514 of ERISA clearly states that ERISA preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." This language has repeatedly and consistently been upheld in court decisions which fully recognize that the intent of Congress in developing ERISA was to exercise the broadest possible preemption in the regulation of employee benefit plans. This tenet of ERISA has successfully eliminated the threat of conflicting or inconsistent State and local regulations on the administration of employee benefit plans.

What we are talking about, in plain English, is the ability of businesses to offer their employee benefits on a uniform basis around this country. For 18 years, the ERISA preemption has helped to increase the number and type of benefit plans offered across America in a cost effective manner by providing a uniform national mechanism for governing benefit plans and for remedying benefit plan abuses. This uniformity has provided the predictability necessary to encourage employers to establish and continue to maintain employee benefit plans on a voluntary basis.

H.R. 2782 would reopen the Pandora's box of conflicting and/or inconsistent State and local regulation of employee benefit plans because the broad language of this legislation constitutes a near elimination of preemption. Employer-sponsored plans would be exposed to increased and costly litigation and greatly increased administrative expenses as a result of having to conform benefit plans to varying State requirements arising from mandated benefit laws.

I find it particularly ironic that at the very time we are recognizing that out-of-control State mandates have contributed significantly to runaway health insurance costs, that administrative simplification is a valuable cost control mechanism, and that uniform claims processing will further restrain costs, we are here debating legislation that will increase costs, reduce access, and reverse the significant gains made in the development of employee benefits in this country.

The absolute last thing we need is legislation that would further increase costs and reduce access to health care. Make no mistake about it, H.R. 2782 would both increase health care costs and restrict access to health insurance coverage.

This ill-advised legislation, and its companion legislation H.R. 1602, are aimed at providing special interest exclusions to the uniformity standard developed under section 514 of ERISA. The Senate version of this effort has combined these two bills into a single package S. 794. Mr. Chairman, I am strongly opposed to this attempt to open the cornerstone provision of ERISA, the State preemption provision, which has contributed significantly to the development of employee benefit programs, and urge Members to vote against this ill-timed legislation.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this bill is simply to correct what many of us believe is a misreading of ERISA by the courts. That misreading has devastated the worker apprenticeship and training programs in many States. These court decisions directly run counter to our Nation's pressing needs for upgrading the skills of our work force. We are trying with this legislation to restore State law, which we believe was originally intended when ERISA was first passed.

There are going to be "many bugaboos," raised about the effect of what we are trying to do here, but I assure my colleagues that the effect of it is narrow. It is specific, and is not meant to give weighted leverage and assistance to unions or employers, workers or their bosses. It is simply meant to reestablish State law preeminence. It is, I think, a good States rights bill.

Mr. PANETTA. Mr. Chairman, I am pleased that the House Veterans' Affairs Committee has outlined the need to provide flexibility in the implementation of H.R. 5193. Specifically, the committee has highlighted the opportunities presented by the Silas B. Hays Hospital at Fort Ord, CA. This legislation takes the important step of establishing expanded sharing of health care services between medical facilities of the Department of Defense [DOD] and the Department of Veterans Affairs [VA] to account for downsizing and closing medical facilities at defense installations.

As the committee notes, while Fort Ord will experience a large reduction in force as a consequence of the move of the 7th Infantry Division (Light), there will remain a significant population that relies on the Silas B. Hays Hospital. The report for H.R. 5193 further states that the VA/DOD sharing law, as augmented by this bill, provides the means to consider actively and seriously a restructuring of the existing military medical facility, under one of several possible models, to serve veterans, active duty military and their families, and military retirees and their families. It has become evident that with the Army's current proposal to close the hospital when the 7th Division departs, the result would be higher costs for both the Federal Government and area retirees, veterans, and military personnel. Because the Silas B. Hays Hospital is undergoing a restructuring, this flexibility needs to be provided here.

The Fort Ord Community Task Force has conducted an exhaustive examination of all areas of importance to the population surrounding the base and recently released a

comprehensive report relating to the reuse of the fort. As the report indicates, the Silas B. Hays Hospital serves Navy, Fort Hunter Liggett and Presidio personnel and their families, totaling 14,000 personnel, and 24,000 military retirees and their families in addition to the significant veteran population. Clearly, there exists a strong opportunity here to implement the provisions of this legislation on an innovative basis.

I commend the House Veterans' Affairs Committee on their recognition of the unique situation at Silas B. Hays Hospital. It is imperative that joint sharing agreements between the DOD and VA be undertaken to ensure that the best possible care is available to those individuals who have come to count on the services provided at the Hays Hospital and at other similar hospitals throughout the Nation.

Mr. CHANDLER. Mr. Chairman, I rise in opposition to H.R. 2782.

For the past several years, I, along with many of my colleagues from both sides of the aisle have been working extensively to improve employee benefit programs and find a solution to the health care crisis in America. This bill serves to undermine those efforts.

The Employee Retirement Income Security Act [ERISA] has served as the cornerstone upon which many outstanding benefit programs have been developed. The last thing we need is to weaken ERISA.

One of the principal reasons for Congress' enactment of ERISA in 1974 was to foster growth of employee benefit plans by promoting uniform Federal regulation of those plans. In order to accomplish this goal, Congress recognized the importance of eliminating the threat of conflicting or inconsistent State and local regulations of employee benefit plans.

Mr. Chairman, there are companies headquartered in the State of Washington that have operations in nearly all 50 States. Imagine the administrative nightmare, let alone the cost, in administering 50 different benefit plans or complying with 50 different State laws. That is what we can expect if H.R. 2782 is enacted.

H.R. 2782 opens the door to allowing States to ignore ERISA and broadly regulate benefit plans under the guise of prevailing wage, apprenticeship, and contribution collection laws. This legislation would limit flexibility and would discourage the creation and the maintenance of employee benefit plans.

Mr. Chairman, H.R. 2782 should be defeated because it undermines one of the most fundamental and desirable features of ERISA—the uniform Federal regulation of employee benefit plans. ERISA's preemption of State laws that relate to employee benefits is working and should not be disrupted.

Enactment of H.R. 2782 will only invite conflict and increase the already high cost of employee benefits. Ultimately, it is employees who will suffer as employers are forced to control these costs in the form of reduced wages or other compensation. I urge my colleagues to vote "no" on H.R. 2782.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 2782, a bill to amend the Employee Retirement Income Security Act [ERISA], the law that governs most private pension programs. H.R. 2782 will restore an individual State's basic right to determine the conditions and protection it will extend to its workers and their families.

ERISA was originally designed as a pension protection law. It protects the interests of millions of American workers and their families by setting minimum standards for pension plans in private industry. For example, ERISA insures—among other things—that workers get coverage if they are entitled to it, that there are adequate funds to pay out benefits when they are due, that funds are managed wisely, that employees and their families understand their rights and obligations, and that workers' rights are protected in the event that a plan is terminated. Workers who feel that they have been unfairly denied some form of their employee benefits—who feel, for example, that they have been unfairly covered or terminated by an insurance carrier—can appeal through ERISA.

Recently, however, Federal courts have rendered decisions striking down State laws protecting workers. The courts have done this by broadly interpreting ERISA to mean that it can override State laws and that States cannot get involved in employer-employee issues. This presents a clear and present danger to the basic right of States to determine how workers on their own public works projects should be treated.

As a result of these recent court rulings, States are uncertain of their jurisdiction. For example, the California Apprenticeship Council is in essence not proving any new apprenticeship programs until its authority is clarified. This was not Congress' original intent when it enacted ERISA back in 1974. As a result, we are now at a point where Congress must intervene if the original intent of ERISA is to remain intact.

If H.R. 2782 is enacted, it will clarify the interpretation of ERISA so that it does not override States rights and work to the disadvantage of workers involved with State contracts. Under H.R. 2782, ERISA will not replace State laws governing employee benefit programs of local contractors in three areas, prevailing wages, State apprenticeship training, and State mechanic's liens and collections.

H.R. 2782 will clarify ERISA by restoring a State's right to determine how State money is spent on State projects, and to decide how local contractors treat their workers. H.R. 2782 will only apply to employers who voluntarily bid on State contracts. It will not affect private contracts, just public workss projects.

If H.R. 2782 is not enacted, States will be more and more limited in their ability to protect workers. For example, they will not be able to continue requiring public works contractors to comply with various worker protection requirements. They will not be able to provide additional tools so that multiemployer pension plans can collect delinquent contributions from those employers who ignore their contribution obligations.

Enactment of H.R. 2782 will help to block an all too prevalent trend, the steady erosion of the rights of the American worker. I urge my colleagues on both sides of the aisle to support its final passage.

Mrs. KENNELLY. Mr. Chairman, I rise today in support of H.R. 2782, which would amend ERISA to clarify that three types of State laws are not preempted or voided by ERISA, first State laws concerning apprenticeship training on public works projects; second, State laws requiring payment of prevailing wages on public works projects; and third, State mechanic's lien laws and related means by which State laws enable workers to recover promised wages and benefits for work performed on building and construction projects.

Mr. Chairman, some courts have applied these preemption provisions of ERISA to strike down State public works apprenticeship and prevailing wage laws, even though those wage laws do not conflict with ERISA and there is no indication that Congress' intent was to preempt a State's right to contract for public works. Connecticut is among those States that meet Federal standards for apprenticeship programs and it also has a prevailing wage law.

ERISA's provisions were intended to protect benefit plans from multiple government regulation by establishing benefit regulation as an exclusive concern of the Federal Government. The Federal Government sets prevailing wage standards and other terms for its public works contracts.

This bill which I cosponsored clarifies many of these concerns. I commend my colleagues on the Subcommittee on Labor-Management Relations and Mr. BERMAN of California and Mr. HENRY of Michigan for their hard work. I urge my colleagues to support passage of this important legislation.

Mr. LEVINE of California. Mr. Chairman, I rise today as a cosponsor of this bill and to urge my colleagues to vote in favor of passage. I would first like to commend my colleague from Los Angeles, Mr. BERMAN, for taking swift actions to address the problems caused by Federal court decisions in General Electric versus New York State Department of Labor, Hydrostorage versus Northern California Boilermakers Local Joint Apprenticeship Committee, and Iron Workers Mid-South Pension Fund versus Terotechnology Corporation.

In 1974, the ERISA law was passed by this body for the purpose of protecting employees' benefit plans from abuses by employers. Since its enactment, the courts' decisions have consistently disregarded congressional intent in formulating their decisions on this issue. They have, instead, deprived States of their rights to control how to spend State funds on public construction projects. Perhaps worse, the courts have denied employees working on these public projects protections that are clearly their interests.

This bill will clarify once and for all that employee benefit rights do not preempt any State law providing for payment of prevailing wages or standards for training programs.

This legislation is needed to return to the States their tool of the mechanic's lien law, which has also recently been preempted by the courts. These laws seek to ensure that workers received compensation, wages, and benefits to which they are entitled. Mr. Chairman, in today's recessionary economy, such a guarantee for working men and women is essential. Many of the lucky few who have employment these days are living paycheck to paycheck—one small step away from economic ruin. Without lien laws, families are placed in constant danger that the labor they perform will not be compensated. Placing families in such unreasonably tentative positions is unfairly stressful. This bill is necessary to

ensure that no work goes unjustly uncompensated.

Let me tell you what this bill does not do: It does not undermine the Federal regulatory scheme for employee benefit plans; it does not allow the States to regulate employee pension or health plans; it does not require employers to create or maintain such plans; it does not dictate the terms of such plans; and it does not regulate the administration or operation of such plans.

Contrary to opponents claims, the prevailing wage provisions in this bill do not affect private contacts at all. Only public State contracts that are voluntarily bidded on would come under the scope of this provision.

I urge my colleagues to join me in support of this much-needed measure.

Mrs. MINK. Mr. Chairman, I rise today in support of H.R. 2782 which clarifies the preemption clause in the Employee Retirement Income Security Act or ERISA.

When ERISA was passed in 1974, providing for the preemption clause it was not intended to be interpreted so broadly as to include State apprenticeship programs, State prevailing wage, and mechanic's lien laws. Standards of wages, worker training, and legal remedies to recover wages should be controlled by the States.

Our central concern in 1974 was the uniform application of pension and welfare benefit plans. It was enacted to assure that pension plans provided basic benefits including portability, and to protect employees from conflicting regulations.

Congress felt very strongly that a Federal regulatory plan covering employee pension and benefits plans was necessary to assure that workers were treated fairly and received benefits they rightfully earned. However, at no time did Congress provide that apprenticeship programs, prevailing wages, or mechanic's lien laws should be considered an employee benefit which was preempted by ERISA.

Yet various court decisions have invalidated these State laws as preempted under ERISA. Clearly ERISA should not be interpreted to preempt these State laws. Standards for public works contracts using State and local funds should be set by State laws and administered by State and local regulation.

While many prevailing wage laws include the value or cost of employee benefits, such as health insurance, pensions, and training benefits in the determination of prevailing wages, use of these factors in determining wages does not in itself alter the benefits package and therefore should not be deemed as preemptive.

Similarly, the longstanding State role in apprenticeship programs has also been jeopardized by the ninth circuit court interpretation of the ERISA preemption. The court's decision that State-sponsored apprenticeship standards constitute an employee benefit plan which are preempted by ERISA has seriously undermined State efforts to provide job training and employment opportunities through apprenticeships.

Congress did not intend ERISA to deprive State and local governments of their traditional right and power to regulate wages or to set the terms and conditions under which States contract for public works projects. Congress did not intend ERISA to upset the longstanding State role in apprenticeship. And, we did not intend ERISA to block multiemployer pension, health and welfare plans from use of State law liens and other State means for collecting delinquent contributions.

Mr. Chairman, States must regain the ability to enact laws regarding apprenticeship programs and prevailing wage policies without being obstructed by an over broad interpretation of a Federal statute, ERISA, that was never intended to restrict traditional areas of State regulation. The enactment of H.R. 2782 is necessary to ensure that these rights of States are preserved.

This legislation does not seek to weaken the original intent of the Federal preemption or the Federal regulatory power designed to govern employee benefit plans. This bill overturns court decisions governing ERISA's preemption of prevailing wage rates, apprenticeship programs, and mechanic's lien laws, and restores to States the power to enact laws and regulations in these three areas. This restoration of States' powers is important in order to allow for the State enhancement of the workers' wages, training, and legal remedies.

Mr. Chairman, I urge my colleagues to vote for H.R. 2782, and to overturn these errors of interpretation made by the courts.

Mr. WILLIAMS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has now expired.

Under the rule, the bill shall be considered for amendment under the 5-minute rule. Consideration of the bill and all amendments thereto shall not exceed a total of 4 hours.

The Clerk will read.

The Clerk read as follows:

H.R. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ERISA PREEMPTION RULES NOT TO APPLY TO CERTAIN ADDITIONAL STATE LAWS.

Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraphs:

"(9) Subsection (a) shall not apply to—

"(A) any State law providing for the payment of prevailing wages;

"(B) any State law—

"(i) establishing minimum standards for the certification or registration of apprenticeship or other training programs,

"(ii) regarding the establishment, maintenance, or operation of a certified or registered apprenticeship or other training program, or

"(iii) making certified or registered apprenticeship or other training an occupational qualification; or

"(C) any State law providing additional remedies or means for collection of contributions to a multiemployer plan.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to actions taken on or after the date of the enactment of this Act.

Mr. WILLIAMS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. BERMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the author of H.R. 2782, I want to take this opportunity to rise to urge my colleagues to support this important legislation. Its purpose is very simple. It is to restore the right of States to protect their workers in three critical areas: prevailing wages, apprenticeship and training, and remedies for the collection of delinquent plan contributions.

Contrary to what we have heard from some of the previous speakers during general debate, this bill is narrow legislation intended to clarify that section 514 of ERISA, the preemption provision, was never intended to preempt State law in these three areas. It has never been my intention to address concerns beyond these three areas. I might add, parenthetically, and I include this in what is not my intent, it is not my intent or it is not the intent of anyone on this side to offer any amendment dealing with insurance company practices and State remedies. I will oppose any efforts that may be made to expand the bill beyond the very narrow provisions of this legislation, if they are brought up today.

I will, however, support an amendment to be offered by my colleague, the gentleman from Michigan [Mr. HENRY] to narrow the language of the bill; that is, to even further narrow the language of the bill with regard to State prevailing wage laws and State remedies for delinquent plan contributions.

The gentleman from Michigan expressed certain concerns at the committee markup of H.R. 2782. I am delighted that the amendment he will offer, which I support, allays his concerns, and that he is prepared to support this important legislation upon adoption of this amendment.

What section 514 provides, as others have pointed out, is that with certain exceptions ERISA shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan.

I might point out, everybody talks about this being the first effort to exempt anything from ERISA preemption. That is not correct. The original ERISA law excluded regulation of the insurance industry and other items from the exercise of preemption. That is why we still have State regulation of insurance. There have been amendments to ERISA dealing with employee benefit plans and dissolution of marriages, and State community property laws which are exempted from preemption have certain aspects otherwise covered by ERISA.

□ 1430

And there have been court cases which have concluded in a number of

different areas that section 514 does not, does not preempt these areas of ERISA.

I think my colleagues would be amazed to learn the range of State laws that have been invalidated on the basis of that short sentence—in areas where Congress has never purported to legislate. Relentless efforts have been made to overturn an array of State laws establishing labor standards and other protections for workers. I know that as a former State legislator myself I am well aware of the case that was made on behalf of State legislation in those areas—and consequently the tremendous harm resulting to workers as a result of some of these interpretations of ERISA preemption.

I know first hand from my discussions with California workers the price they have paid and will continue to pay as a result of preemption of, first, State prevailing wage laws, second, State law establishing standards for apprenticeship programs, and third, State laws providing remedies or means for collecting contributions to multiemployer plans. I am convinced that the harm caused by the interpretation of ERISA as to these issues is so significant that action on our part is required.

On the issue of State prevailing wage law, certainly the interest of the State in establishing minimum standards for employment on publicly funded or assisted projects should be clear. The 31 States that have enacted State prevailing wage laws have, in so doing, acted out of an interest in setting the terms on which they will do business with contractors.

But in 1989, the second circuit in General Electric versus New York State Department of Labor invalidated the fringe benefit provisions of New York's prevailing wage law.

The notion that Congress would willfully bar the States from enacting and enforcing laws effectuating State interests in an area which ERISA does not in any way lay claim to cover, is a strange one to me.

I would like to find the part of the committee print or the part of the floor debate on ERISA back in 1974 where someone said that State prevailing wage laws insofar as they attempt to provide prevailing and comparable fringe benefits was intended to be wiped out by this.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. Mr. Chairman, will the gentleman yield on that question?

Mr. BERMAN. I am happy to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, the concept is, as I understand it, that obviously when under the guise of prevailing wages, and understandably so, you have so-called prevailing benefit programs which are and meet the definition of employee benefit programs under ERISA, then you, of course, do run into ERISA preemption.

Mr. BERMAN. If I may reclaim my time, it is just unfathomable to me that this body back in 1974 or the other body could have debated this issue without any reference to the existence of 31 State laws requiring prevailing wages on public projects, and never made one reference to the fact that the fringe benefit portions of those laws would be wiped out by the passage of this bill with its preemption clause. It just does not wash. It does not make sense that this was not contemplated at the time.

The notion that Congress would willfully bar the States from enacting and enforcing laws effectuating State interests in an area which ERISA does not in any way lay claim to cover is a strange one to me. I cannot believe this was the intent of Congress in enacting ERISA.

Likewise, every one of the 50 States has enacted laws setting standards for the certification or training of apprentices. States have a patent interest in the development of a skilled work force which is likely to guarantee safer workplaces. This is the basis of State regulation of employer conduct in the establishment and maintenance of apprenticeship programs—and it is fully consistent with the Federal-State scheme of the 50-year-old Fitzgerald Act.

If we do not want that act to apply anymore, the intent of that act, then the amendment should be to the Fitzgerald Act and not by construing the preemption clause of ERISA.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. ERISA certainly does not purport to set standards for apprenticeship programs. Yet in Hydrostorage, Inc. versus Northern California Boilermakers, the ninth circuit in 1989 invalidated California apprenticeship standards on ERISA preemption grounds.

In this area, too, we see State laws that have in many instances been on the books for decades thrown out on preemption grounds, leaving a vacuum in their wake, and in essence nullifying the Fitzgerald Act. H.R. 2782 provides essential clarification on this issue, as well, spelling out that ERISA does not preempt State law establishing apprenticeship program standards, making certified or registered apprenticeship or other training and occupational qualification, or regarding the establishment, maintenance, or operation of apprenticeship programs.

The third and final element of H.R. 2782 provides that ERISA does not preempt State law providing additional remedies or means for collection of contributions to multiemployer plans.

It is quite clear to me that preservation of State collection remedies was explicitly intended by Congress to be an integral part of the ERISA scheme for assisting plans in collecting contributions. Congress reaffirmed this intention in the Multiemployer Pension Plan Amendments Act of 1980 after the original passage of ERISA. Yet in Carpenters Southern California Administrative Corporation versus El Capitan Development Company, the California Supreme Court invalidated California mechanics lien law on ERISA preemption grounds.

There is a long history of bipartisan support for effective means of maintaining the fiscal integrity of multiemployer plans. There is certainly no disagreement among plan trustees whether they be employer or labor on this issue; to the contrary, State remedies and means for collecting unpaid contributions simply provide fiduciaries with the necessary tools to protect the plans for which they are responsible. Yet the El Capitan case—and the fifth circuit decision in the Iron Workers Mid-South Pension Fund case—have severely undermined the fiscal soundness of many plans.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. I have statistics about the depletion of health and pension fund reserves because of the failure of mobile, seasonal contractors who come to one place, leave that place after a job is done, never make the required contributions, thereby jeopardizing the beneficiaries of the health and pension plans that they are supposed to be contributing to and socking it to the contractors who are meeting their obligations and making the contributions by depleting their resources. This is grossly unfair. Liens and surety bonds are the only meaningful way to provide remedies for this kind of conduct of the State labor standards.

State labor standards and remedies that have been on the books for decades have been wiped out; lower court cases which were first brought to my attention several years ago have not been reversed.

These cases certainly do not square with my notion of federalism, and I certainly suspect that they are at odds with all of the rhetoric heard regularly in this Chamber about returning government to the people at State and local levels.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY: Page 2, strike lines 9 and 10 and insert the following:

"(A) any State prevailing wage law to the extent that it applies to public projects, if such law permits the payment of the cash equivalent of aggregate employee benefit plan contributions or costs and does not mandate the maintenance of, or regulate the benefits or operations of, any employee benefit plan;

Page 3, strike lines 11 through 13 and insert the following:

(C) any State law providing for a mechanics' lien or other lien, bonding, or other security for the collection of delinquent contributions to a multiemployer plan, except that this subparagraph shall not apply in the case of any such lien, bonding, or other security unless the plan seeking to enforce such lien, bonding, or other security provides notice thereof to any person obligated thereunder.

Mr. HENRY. Mr. Chairman, this amendment seeks to make three changes to the bill as brought to the committee. And the amendment enjoys the support of the gentleman from California [Mr. BERMAN], for which I am thankful, and I appreciate the support of the Members on both sides of the aisle who have helped draft this language.

The amendment, as I said, makes three changes. No. 1, it clarifies that State prevailing wage benefit laws permitted under ERISA are only those that apply to public projects.

□ 1440

This is the issue of greatest concern to many in the business community, in terms of the potential use of this bill to mandate benefits across the board.

The amendment limits the bill to prevailing wage laws which apply to public projects.

Second, it permits those States' prevailing wage benefit laws to go forward only if they allow contractors to meet an aggregate package of wages and benefit contributions or cost and do not mandate that specific benefits be maintained.

In other words, the State law must allow contractors to substitute either cash or other benefits in place of any otherwise specified benefits.

Third, it narrows the State collection law remedies to those listed in the amendment, mechanics' liens, other forms of liens, bonds, or other security. There was concern about the breadth of the language in the bill that it might invite any number of new State remedies.

The amendment limits the bill to collection remedies which are well known and were used prior to recent court decisions. One of the central concerns with H.R. 2782 has been that it could broadly undermine ERISA preemption by allowing States and local governments to mandate benefits laws which would not apply only to public sector projects but to private sector activities as well. For example, concern has been raised that a State might impose mandated benefits on all employers under the guise of a prevailing wage law.

The amendment is intended to prevent the bill from being used to allow broad mandated benefits laws. The exception to ERISA's preemption with this amendment only applies to laws providing for prevailing wages on public projects. We intend, by that language, to allow State Davis-Bacon-type laws, but not to allow broad mandated benefits laws which apply to private sector activity.

The scope of State Davis-Bacon laws varies. They are not coextensive with the Federal law nor with each other. The types of public nexus required are spelled out in the committee report in footnote 4.

We are not, however, opening the door to mandated benefits for private activity which does not have this nexus to a public agency.

The bill with the amendment does not reverse the decision in ABC versus Baca and Chamber of Commerce versus Bragdon, which was the issue of great concern to the business community in that it was an effort by local communities to impose mandated benefits on purely private activities through the local code or zoning ordinance.

Mr. Chairman, I would like to invite the gentleman from California [Mr. BERMAN] and the gentleman from Montana [Mr. WILLIAMS], the chairman of our subcommittee, to join me in a colloquy about the amendments I am offering.

During committee markup, I raised a number of concerns about the language of H.R. 2782, which my amendment addresses.

First of all, I was concerned that the bill could be viewed as exempting from ERISA's preemption State and local laws requiring employers to provide prevailing employee benefits on private building and construction projects. My amendment clarifies that the bill does not save such private project laws from ERISA's preemption.

I would ask the gentleman from California [Mr. BERMAN] if he agrees.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, yes I do agree. But State prevailing wage laws to the extent that they apply to public projects would be exempted from ERISA preemption even after your amendment is adopted.

The committee report at footnote 4 on page 4 provides examples of the types of work covered by the 31 State public prevailing wage laws, including projects financed in whole or in part by public moneys, projects financed by public bonds, projects financed with public guarantees, projects constructed pursuant to a contract with a public agency, or on land provided by a public agency, and projects which are to be dedicated or leased to a public agency or public use upon completion of construction. Some States also include industrial bond financing.

Mr. HENRY. The gentleman is correct. My amendment would preserve H.R. 2782's exemption of public project prevailing wage laws from ERISA preemption in the manner set forth by the gentleman.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, that is my understanding as well. The committee report, and that footnote in particular as well as the examples cited by the gentleman should be read in conjunction with this amendment, because it remains operative as to the types of public project prevailing wage laws which are intended to be exempted from ERISA preemption.

Mr. HENRY. I was also concerned that some State public prevailing wage laws could be construed as mandated benefit laws. The amendment would allay this concern by saving from preemption only those State laws which do not mandate the maintenance of, or regulate the benefits or operations of, any employee benefit plan. Employers would be permitted to satisfy the employee benefits component of a prevailing wage by paying the equivalent in cash or benefits to the workers.

Mr. BERMAN. This is my interpretation of the amendment as well.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield further, I also want to concur with what has been said by my colleagues concerning this amendment and point out that during the committee markup of this bill, the gentleman from Michigan [Mr. HENRY] raised certain issues, and even though the markup proceeded without amendment, we agreed to try to address his concerns and are herein doing that. I think we have worked hard to reach an agreement, and I am delighted we have been able to do so with the gentleman from Michigan [Mr. HENRY] and his side of the aisle, in the dialog which indeed reflects my understanding of the amendment, and I support its adoption.

Mr. HENRY. I thank the gentleman. If I may just continue, finally, I was concerned that the contribution collection remedies provision of the bill was too broad. It was not clear to me what "additional remedies or means for collection of contributions * * *" could be interpreted to encompass.

The amendment narrows the exemption to State laws providing for a me-

chanics' lien or other lien, bonding, or other security for the collection of delinquent contributions, and it further requires that a plan seeking to enforce such lien, bonding, or security, must provide notice to any person obligated thereunder.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has again expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, the gentleman correctly states my understanding of the impact of narrowing the contribution collection remedies provision.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, yes, I concur with that.

Mr. HENRY. I want to thank the gentlemen for their helpfulness, and I thank them for their patience in resolving this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The amendment was agreed to.

Mr. MARTINEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 2782.

Mr. Chairman, having served on a local city council both as a councilman and as mayor—and then in the State legislature, I have always had greater confidence in local government to regulate and set standards regarding, first, public work wages and benefits, second, standards of apprenticeship, and third, mechanics liens.

H.R. 2782 returns to the States the rights they have always enjoyed before an inappropriate interpretation was made by the courts.

Mr. Chairman, my colleagues argue that this bill mandates employee benefits, increases health care costs, decreases the ability of employers to implement education and training, and severely weakens ERISA's preemption. Nothing could be farther from the truth.

This bill allows the States to do what they have been doing all along in reality, the ERISA preemption they talk about gives employers rather than the States the right to set standards and conditions for wage, benefits, and apprenticeships.

Further, they say that broad language opens floodgates for multiplicity of overlapping and conflicting State regulations of employee benefits. This is misleading. Wages and benefits are and always will be set by the cost of living and the standard of living in a particular area and will always be differing unless national corporations and companies set national standards—which is what will happen if this bill is not passed. This legislation lets the market work.

I urge my colleagues to join me in supporting this important legislation and in opposing all weakening amendments.

H.R. 2782 does three things:

First, this bill lets States require that bidders on State public construction projects conform to State prevailing benefit standards. This affects only firms that chose to bid on those State contracts.

Second, the bill restores State ability to determine standards for apprenticeship programs. Since the 1937 Fitzgerald Act, apprenticeships have been under joint State and Federal control. All 50 States regulate apprenticeships, and 27 do it via Department of Labor-approved State apprenticeship councils. And 23 do some regulating with the DOL having responsibility for formal registration of apprenticeships.

In 1989, a court ruled in Hydrostorage versus Northern California Boilermakers Local Joint Apprenticeship Committee that ERISA preempts State ability to require contractors to meet State apprenticeship standards in State public work projects. This legislation simply restores State jurisdiction over apprenticeship training programs.

Third, this legislation restores what are popularly known as mechanics liens. All 50 States have mechanics liens laws. Many of those laws date back to the 19th century.

These laws allow laborers who perform work or services—such as architects, contractors, and skilled craftsmen—to obtain a lien on property to secure payment. In a 1990 court case, the Iron Workers Mid-South Pension Fund versus Terotechnology Corporation, the court ruled that ERISA preempted the ability under State law to obtain a lien to ensure that a firm made pension contributions that had been agreed to. This decision has had broad impact in undermining such protections.

I want to make four points about this bill. First, this is a modest and conservative bill that merely reverses several court decisions that have occurred largely since 1989. The legislation simply restores what had been the law for many years—in some cases going back to the 19th century.

Second, this legislation retains our Nation's heritage of strong federalism. While a few Republicans are pushing for inside-the-beltway rules and regulations, this legislation strengthens the federalism that has served our Nation so well. It allows the States to continue to function as laboratories of democracy, competing to provide more efficient and productive public policies.

Third, States should be able to continue to exercise control over how they spend State funds for State public works. This is both fair and efficient.

And finally, the prevailing wage elements in this legislation apply only to employers who voluntarily bid on State contracts. It does not apply to other employers doing business in the State.

Mr. Chairman, the States, not the Federal Government are in a better position to regulate these matters and to set standards. I want to make it emphatically clear that the Federal Government has no appropriate rule in regulating the matters covered by this legislation. I urge my colleagues to join me in supporting this legislation that restores ERISA to its original intent.

□ 1450

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Page 3, strike lines 1 through 10.

Mr. FAWELL. Mr. Chairman, as I indicated in my opening remarks, the real issue left—if the two amendments which have already been accepted by this body do what we think they do—the only issue really left is shall we reverse the Hydrostorage case out there in California. I want to deal with that. It is darned intricate, I know. Labor law is dry, but I will try to make it as interesting as I can.

In Hydrostorage, the State law which was set aside in that holding went beyond generally accepted areas of State concern in regard to apprenticeship plans and imposed specific benefit requirements on construction employers. In that case, California had adopted State apprenticeship standards which mandated that construction employers, as a condition to obtaining publicly funded work, must participate in and contribute to a particular union apprenticeship program. The State further established the manner in which such participation and funding would take place, requiring that, in this instance, a nonunion contractor also contribute to the union coffers.

Now, the California law required Hydrostorage to apply to a union apprenticeship committee for permission to train apprentices and to sign an agreement to train apprentices solely in accordance with the union apprenticeship program. If this was not done Hydrostorage, a multi-State builder trying to compete and trying to adjust to the various jurisdictions as multi-State people have to do each time, was not, under California law, going to get any public projects work in California. That was clear.

Admittedly, this kind of raw union power in control of State apprenticeship councils does not abound every-

where, and I do not condemn the State Apprenticeship Councils. They represent the Federal Government agency which delegates authority to them to set forth basic commonsense standards; but they do not have the authority to try to tell people which particular apprenticeship contract they have got to take. It simply sets basic concepts.

State Apprenticeship Councils do not, to my knowledge, mandate that you have to go to a nonunion apprenticeship plan or a union one. The Hydrostorage case is an example of how State councils—controlled by construction unions, however, in this particular case, and I am sure there are other instances where it would not be true—freeze out nonunion apprenticeship plans by exceeding the Federal Bureau of Apprenticeship and Training, known as BAT guidelines. They have been stopped from doing this in California under a court decision and elsewhere because ERISA so far has exclusive jurisdiction of employee welfare benefit programs. For the last 18 years, ERISA has included apprenticeship and other training programs as part of employee benefit plans.

Nobody worried about it until the Hydrostorage case came along. Now it is a very celebrated case and it has done allegedly great harm to this Nation.

Indeed, for 18 years, I repeat, apprenticeship and other training programs have functioned well under the jurisdiction of ERISA and under the National Apprenticeship Act, which is the basic Federal law of apprenticeship, with regulations on apprenticeship contained in 20 CFR section 29.

Now, the court invalidated the State law because it required construction contractors on public works projects to become bound by a specific, in this case a union apprenticeship, plan. The State law went beyond the traditional realm of setting minimum State apprenticeship guidelines under the National Apprenticeship Act by requiring direct contractor participation in and contribution to specific union apprenticeship plans. As such, it violated the preemption clause of ERISA which clearly has stated for 18 years that "apprenticeship or other training programs" are "employee welfare benefit plans" under the jurisdiction of ERISA.

Apprenticeship plans are important benefits which many employers, construction employers specifically, both union and nonunion, create through employee/employer negotiations. We need apprentices and we need good plans, and in light of today's economic reality, we need them on a multi-State and multi-locality basis.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for an additional 3 minutes.)

Mr. FAWELL. Currently, States do not have the right, as I see it, certainly under Federal or State law, to mandate which apprenticeship plans an employer has to accept or the basic terms and conditions of apprenticeship plans, under either ERISA or the Fitzgerald Act.

However, H.R. 2782 goes far in excess of just repealing Hydrostorage. It forges new law with a decided big labor bias by exempting from ERISA preemption any State law—criminal law or civil law—which establishes minimum standards, including union standards, for the certification of apprenticeship or other trading programs.

That is not so bad, but then it goes on, and thereby cuts off control of standards, as I see it, of the Fitzgerald Act insofar as State apprenticeship councils are concerned, as well as cutting off ERISA.

But there is more. It also allows any State law to be exempt from ERISA preemption regarding the establishment and operation of certified apprenticeships or other training programs.

If a State, or county, or city wants to include standards which allow States to pass laws like California did, well, that is OK. We are condoning what California just did with what we are doing here.

It even goes so far as to exempt from ERISA preemption any State law—now, get this—making certified apprenticeships or other training programs occupational qualifications. Licensure is with us—occupational qualifications of public or private jobs. You have got to go to the union if they are in control. You have got to go and look at that apprenticeship program.

State law is defined here as any local government. Now, ERISA was formed so that employers who are multination and multistate do not have to readjust with a particular employee benefit plan, including apprenticeship plans, every time they go from Peoria, IL, to Naperville, IL, to San Francisco, or wherever they may be.

□ 1500

That is exactly what we are doing here—making it real easy for competition in this great land of ours.

In Hydrostorage, the court rightly denied the attempt to mandate that contractors had to signup with union apprenticeship plans and contribute to union plans. The court also correctly pointed out that ERISA is a comprehensive remedial statute which is, in the works of the court, "designed to protect the interests of employees in pension and welfare plans, including apprenticeships and other training programs."

The court also pointed out that ERISA was designed to protect employers from conflicting and inconsistent State and local regulation of such apprenticeship plans. One thing is for sure, if H.R. 2782 should pass and be signed into law, one could kiss goodbye to any nonunion apprenticeship plans in California and you could bet those plans will be loaded with special interests for unions, too.

The CHAIRMAN. The time of the gentleman from Illinois [Mr FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. One thing is for sure, if H.R. 2782 should pass, in even its abbreviated form, and be signed into law, one could kiss goodbye to any nonunion apprenticeship programs in California. That we know. And you could bet those plans will be loaded with special interests for unions, too.

More, we are opening the door to all of America to be plagued with that which has afflicted California, and I think we ought to give a lot of thought to this.

Let me close with this paragraph—I have others, but in the interest of time I am going to wind it down—we have a problem in, they tell me, 5 or 6 States where the State Apprenticeship Councils have abused the authority provided by the Federal Government. The courts have appropriately addressed the issue.

The court stood by the Fitzgerald Act and stand by ERISA, where you can have, as I see it, an oasis of freedom because the Federal Government does not set all kinds of bureaucratic rules and regulations, but instead says to the employer and to the employee in freedom, "Do what you have to do, create the kind of employee benefit plan that fits you. You don't have to necessarily worry about every country or every State where you might go and have some business to conduct."

Now, rather than stand by the Fitzgerald Act and stand by ERISA, Congress is going to create a problem in 50 States by enabling every State licensing law or building requirement to impose haphazard and discriminatory requirements under the guise of apprenticeship, and "worry, minorities, worry, women, because you will find it is not always easy to get by the apprenticeship rules of the unions." If you are interested in providing your constituents with access to quality apprenticeship programs, you go in exactly the opposite direction of this most unfortunate bill.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I would be glad to yield to the gentleman from California.

(On request of Mr. BERMAN and by unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I just want to try to join the issue here on the point the gentleman from Illinois makes, be-

cause I hear his passionate arguments but I truly do not understand them.

I would like to go to California with the gentleman from Illinois and pass the vast number of nonunion construction contracts that existed before Hydrostorage case and that exist after Hydrostorage. This is about conforming to State standards, standards promulgated with the notion of training workers to come into the work force and protecting their health, and safety, and quality of the product.

That is what this is about. In the late 1930's, Congress passed the Fitzgerald Act. It set forth some Federal guidelines. It told the States to implement those guidelines. I would like the gentleman to name for me one guideline promulgated according to the Fitzgerald Act and pursuant to the Fitzgerald Act that the States have overturned or that would be overturned by this amendment, just one guideline, so that we can understand what is really at stake here, because I would suggest that the gentleman's argument——

Mr. FAWELL. If I may reclaim my time, which may be expiring, first of all, the State Apprenticeship Councils are the agents for and representing, of course, the Federal Government. So it is, I assume—I am not intimately familiar with how they set their guidelines—but they are, in effect, setting guidelines. If they are out of line, I am sure that if they came before the national DOL, I suppose there would be an issue. In Hydrostorage, the guidelines had nothing to do, had very little to do, with training or protecting health. They said, in just plain English, "I am sorry, you know, unless you submit to the union plan, you are not going to be allowed to even have a chance to enter into this public contract." That is where I am objecting. I am not objecting to commonsense standards. And, by the way, there are not many cases where these kinds of complaints are leveled.

There are only about six or seven States that, as I understand it from the people who work in the apprenticeship plans, that have been out of bounds, have been beginning to try to mandate what could be called special interests. And in all those cases, usually it is unions who have a control, and they want their plans to be followed.

When you have a union plan, they will be even able to eliminate, for instance, the use of helpers, just as this body the other day came to the rescue of unions again when we said "Hey, you don't pass regulations in the Department of Labor because we like the definition of apprentice that happens to be in the regulations right now. We don't want you to think about anything else that might allow helpers to be an expected definition."

Mr. WILLIAMS. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment.

Mr. Chairman and colleagues, the case for restoring comprehensive State apprenticeship programs to the status that they enjoyed prior to the case that the gentleman from Illinois has raised—that is, the Hydrostorage case—and similar cases, is very strong. Protection of apprentices and apprenticeship programs historically, understand, has been a State function, beginning in Wisconsin in 1911.

A majority of the States since then have chosen to regulate apprenticeship at the local level, using State employees paid through State apprenticeship funds. Each of these State apprenticeship councils is approved through the U.S. Department of Labor. They are charged with full responsibility for regulating apprenticeship programs within their own State's jurisdiction. The idea that ERISA preempts these State apprenticeship councils is extremely peculiar. After all, the Fitzgerald Act, the Federal law of the land, is predicated upon a split Federal-State responsibility for regulating apprenticeships. Moreover, once the State apprenticeship council is recognized by the U.S. Department of Labor, the State council is legally obligated to regulate apprenticeship programs within their State. Thus, the court decisions dealing with apprenticeship preemption have created what is a peculiar and very odd conflict between the two Federal statutes.

On the one hand Congress has explicitly authorized States to regulate apprenticeship programs. Again I remind you we did that under the Fitzgerald Act. On the other hand the courts have now concluded that States cannot regulate apprenticeship programs under ERISA.

We hold that makes no sense.

Let me suggest to my colleagues on the other side that, if you oppose the State role in promoting apprenticeship training and protection programs, then move to amend the Fitzgerald Act, but let us not hold the State programs hostage using the shaky argument of preserving congressional intent under ERISA.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Illinois.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Chairman, the Fitzgerald Act, of course, is a Federal act that tries to do, in its own way, what ERISA tries to do, and that is to have a uniformity. So that indeed every time someone shall go to another State or even to another county—I can see in my area of Illinois, if one is out in the suburbs, there is a certain kind of a climate insofar as apprenticeship plans are concerned. Go into the city of Chicago and there is another type of climate.

The whole concept of ERISA and the whole concept of Fitzgerald is that we should approach this, indeed, from a Federal viewpoint so that we do not hack to death all of the various people who are trying to compete and to come up with employee benefit programs and have some uniformity to it, yes.

Mr. WILLIAMS. Reclaiming my time, Mr. Chairman, let me conclude this moment of opposition to the gentleman's amendment by telling my colleagues, reciting for my colleagues the States which want authority over this matter and, therefore, support this bill which provides them with authority over this matter and, therefore, would oppose the gentleman's amendment.

□ 1510

And we have heard from all of these States through the National Association of State Apprenticeship Directors.

Now I hope my colleagues will bear with me. I know that much of the debate on this bill gets tied up in legal terminology, and it requires a certain familiarity with the basis of the subject in order to understand it, and so it might be helpful to some of our colleagues that are listening to this debate to know which States would like to control their own apprenticeship matters, and, therefore, in my judgment would oppose the amendment of the gentleman from Illinois [Mr. FAWELL]—Arizona, California, Connecticut——

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS. Delaware, Florida, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, my State of Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. There are also some territories, very importantly, that would also be included in this list.

My colleagues, these States are torn between the Fitzgerald law, the Federal law, which requires them to have authority on these matters, and a court test which says they cannot. Our bill attempts to return to the States the right over these matters. The amendment of the gentleman from Illinois [Mr. FAWELL] would gut that.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words and speak both to the author of the amendment and, more importantly perhaps, to my chairman.

I am concerned about this issue, as many of my colleagues know, and I am trying to find some sort of accommodation, compromise, that will meet all of our concerns.

The author of the amendment, the gentleman from Illinois [Mr. FAWELL], has indicated his concerns about State

mandates that would put all of these plans under union dictates, and it is my understanding that people on the other side, the chairman and others who have worked on this, have said that is not the purpose of this legislation, that, for example, they say that the Department of Labor could institute some regulations that would avoid that kind of a mandate.

Do I understand the chairman? Is that correct?

If that is correct, before the gentleman answers that part of it, I want to ask the second part of my question.

If that is correct, then why can we not put some language here, either in the body of the bill or in the report language, that would indicate clearly that this is not, should not be, a concern of ours on the minority side because I think the gentleman from Illinois [Mr. FAWELL] has made a perfectly legitimate argument here, that that would be the consequence unless we take some corrective action or specific action in the language or the report language to avoid that.

The gentleman says that is not his intention. Then we ought to have some way to put the language into the bill here.

If the amendment of the gentleman from Illinois [Mr. FAWELL] goes too far, and I do not believe it does, but if it does go too far, then we ought to be able to modify it in some way.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. Mr. Chairman, I will yield to the gentleman now, but I do have a second part to my question.

Mr. WILLIAMS. Mr. Chairman, it is not the committee, and I do not believe one can hold, upon passage of this legislation, that it would be congressional intent to empower one group or another. What we are attempting to do is return that authority simply to the States.

Now if any language that the gentlewoman would have in mind would remove part of that authority from the State, then I would oppose that.

Mrs. ROUKEMA. Then, reclaiming my time, Mr. Chairman, let me go on to the second part of my question. I am not sure that the gentleman from Montana [Mr. WILLIAMS] answered, but I think perhaps the second part is equally important, if not more important, and that is our concern regarding the fiduciary standards.

The gentleman seems to think that that is a problem because that is the heart of this preemption question, as far as I am concerned, what will be the consequence of his language and the preemption, the abandonment of preemption, with respect to fiduciary standards. That is a cause of great concern on our side.

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding to me, and I should point out that the Department of Labor's ability to monitor how funds are spent to enforce the reporting and disclosure requirements of ERISA, to audit those funds is retained. There is nothing in this bill that impacts on the Federal Government's ability to do these things. They are covered by ERISA, these plans, all the authority given to the Department of Labor under ERISA, to ensure that fiduciary obligations are met, are left untouched by this bill. To say otherwise is to create a strawman.

I read the Hydrostorage case, and then I listened to the gentleman from Illinois [Mr. FAWELL] talk about it. I do not see anything in the Hydrostorage case that talks about union versus nonunion. It talks about whether a particular contractor is willing to meet the standards put there for apprenticeship programs. Maybe he has talked to the company. Maybe the company told him something. Maybe he has talked to the lawyer. I read the written decision, and it is not in there, and we are creating, really, a bogeyman there in terms of creating a situation that just does not exist on the facts of this case.

Mrs. ROUKEMA. Mr. Chairman, it seems to me that the gentleman has opened the door here to permit the States to go as far as they will on this subject.

Mr. FAWELL. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Illinois.

Mr. BERMAN. They are still covered by ERISA.

Mr. FAWELL. Mr. Chairman, I repeat once again, in Hydrostorage they were told very, very plainly that their own nonunion apprenticeship plan did not mean a darn thing. They had to accept the union plan.

The CHAIRMAN. The time of the gentlewoman from New Jersey has expired.

(By unanimous consent, Mrs. ROUKEMA was allowed to proceed for 2 additional minutes.)

Mrs. ROUKEMA. Mr. Chairman, I continue to yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Now, when a nonunion employer is told that unless he decides he will go over and accept that particular apprenticeship program, he will contribute to that union fund, he will take all the other conditions that may be in that apprenticeship program when he has his own certified program, I think that that is terribly unreasonable. Obviously, what this means is that the entity that controls the apprenticeship programs ultimately controls the flow of labor obviously, and, if those kinds of plans are allowed to exist in California or in any other State, then we are going to have a discrimination, obviously, on the basis of whether they are or are not in the union plan.

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield to me just for a comment?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for yielding to me.

I have the Hydrostorage case in front of me. I would like to know where in Hydrostorage it says that this contractor was kept from getting a contract because this contractor did not engage union labor. Nowhere in the opinion does it say that. If this contractor wants to do business in California, and this involves dealing with construction of water storage facilities, and there are regulations about how many apprentices one can have working on this very complicated project compared to journeymen, and what kinds of standards they should have for employing apprentices, and what kinds of contributions they should make to the fund that is involved in training, I think that is California's business. As long as the fiduciary obligations and the regulation of these plans by ERISA and by the Department of Labor is kept intact, which it is in this bill that is before us now, I do not see why I, the gentleman from Illinois [Mr. FAWELL], and the people on that side of the aisle, the people who have spoken over and over again about the right of the States to make some decisions for themselves about basic health and safety regulations, and not have everything sucked up by the Federal Government, would object to this.

□ 1520

Mr. FAWELL. I have the case here. I have read it three or four times.

Mr. BERMAN. I have it here.

Mr. FAWELL. It consistently points out that the boilermakers' plan had to be accepted. The State apprenticeship council made that very clear, and I think a lady we both respect a great deal sitting not too far from the gentleman will admit that that is what that plan required. They had to accept the boilermakers' plan. They as nonunion people had to contribute to that plan.

Mr. ANDREWS of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my friend, the gentleman from Illinois [Mr. FAWELL], is correct when he says that sometimes the cases and the technicalities are dry, but he is also right when he implies that the consequences of these decisions are very, very important.

Mr. Chairman, here is the way I understand these issues. If a State is building a turnpike exit ramp and that State through its statutes or rules de-

cides it wants to promote the idea of worker training and apprenticeship by requiring anyone who bids on the right to build that turnpike exit ramp to have an apprenticeship program, we are faced with two questions that are framed by this bill.

The first question is who gets to decide whether they can do that; and the second question is what has Congress already decided in ERISA in 1974.

We have heard some good arguments made expressly and impliedly today as to whether that is good or bad public policy. I think it is good public policy that we promote worker training and apprenticeship by requiring those bidding on public works contracts at the State level to have apprenticeship programs. It is exactly the kind of argument that should be taking place in the New Jersey State Legislature, in the Illinois State Legislature, in the Texas State Legislature, and in all the State legislatures across the country.

The question of whether that is good or bad economic policy does not belong here, it belongs there.

The second question is what did Congress already decide in 1974? Look at the language of the statute. Look at the legislative history. Look at the committee hearings.

I would submit to the committees that there is no sustainable ground to contend that Congress in 1974 intended to preempt and make that decision. Least of all did Congress intend to move that decision over to the Federal courts.

If we do not clarify the scope of Federal preemption by adopting this bill and opposing this amendment, what we in effect are saying is that not only should that decision about whether that public works contract should promote apprenticeship, not only should that decision not be made by the State legislatures, it should be made by the Federal courts in a never ending string of decisions about what the scope of preemption is.

That is not where that decision belongs. It is an important decision of economic policy and it belongs in the State legislatures.

Mr. Chairman, I would be happy to yield to my friend, the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, these are intricate areas of law and the facts, too. In hydrostorage the State apprenticeship council simply said no parallel plans will be even considered, would not allow them, would not open up their minds. You can have a certified apprenticeship program and you simply do not have a chance in California to bid.

Mr. ANDREWS of New Jersey. Mr. Chairman, reclaiming my time, if someone in the California Legislature finds that objectionable, they should introduce legislation to overturn it. Not here, not by us.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield further, I beg to differ. Of course we know that the Fitzgerald Act is there and that State apprenticeship agency is an agent of theirs. It is not purely a California creature.

Obviously we find that it is counterproductive to having uniformity. Also fairness is involved, and also we are concerned about the union involved and accounting for money and things of that sort. But we are only saying why should it be that only one union is the one that is allowed to work on these projects? That is all.

Mr. ANDREWS of New Jersey. Mr. Chairman, reclaiming my time, I would disagree with the merits of the gentleman's point. But more important than that, if the gentleman from Illinois [Mr. FAWELL] wishes to pursue those merits, the gentleman should either introduce legislation to amend the Fitzgerald law or he should introduce legislation to amend ERISA and expressly make those points.

To permit the Federal courts to implicitly overturn matters of State economic policy is not what ERISA intended to do and it is not good public policy.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield for one last reply, ERISA, as I mentioned earlier, is an oasis of freedom. It contemplates that in an employee benefit program, and they specifically include apprenticeship programs and other training programs, it says you, the employer, and you, the workers, and, yes, the union, too, get together and work this out. It says GE, you have thousands of employees all over America, you can get that plan. You can keep it. You do not have to change it when you go to Peoria or San Francisco. We have certified that it is good. It is a sound plan.

All of that is blown out the window by what you are doing here.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ANDREWS] has expired.

(By unanimous consent, Mr. ANDREWS of New Jersey was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS of New Jersey. Mr. Chairman, I yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, one does not even have with ERISA a battle between States rights and the Federal Government because the Federal Government has more or less pulled back and said insofar as employee benefit plans are concerned—now, with pension plans they have higher fiduciary standards. I do believe there are more standards. But what they have said is for once we let freedom reign. We let the employers and the union and the employees work together, create their own plan, no matter what, if it is an employee benefit plan.

Mr. Chairman, do you know what happened? I listened to all those States reciting how many States would like to regain some power.

Mr. Chairman, John Dent, the Congressman who led the fight for ERISA back in 1974, said, and correctly, that the preemption was the crowning achievement of ERISA.

Yes, it was, because we finally had all the States agree that in this one area, for the benefit of everyone, for the workers and the employers alike, that we ought to be able to create something which the people created, you got it, and then when you go to Peoria or San Francisco or Portland, you can keep it.

Mr. ANDREWS of New Jersey, Mr. Chairman, reclaiming my time, we oppose the amendment of the gentleman from Illinois [Mr. FAWELL] because we disagree over what ERISA is and what it should be. ERISA is not an omnibus national uniform Labor Relations Act. It regulates health plans and pension plans and other kinds of plans between the employer and employee.

If the gentleman from Illinois [Mr. FAWELL] wishes to pursue the economic policies he is arguing today, introduce legislation and let us debate it on the merits. Let us not permit the superlegislature of the Federal courts to rewrite labor law on a State-by-State basis.

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is for me a personal privilege and pleasure to rise in support of the Fawell amendment. I have had the unsavory duty to sit on the Committee on Education and Labor for 8 years and watch the unseemly workings of that committee and behold with discouragement the shameless pandering to special interests that I have seen on that committee. But there has been one shining star working on behalf of the public interest, and that is the gentleman from Illinois [Mr. FAWELL].

Mr. Chairman, I have had the privilege of sitting next to the gentleman from Illinois [Mr. FAWELL], of seeing his margin notes, seeing his underlining, seeing his careful study of even the most insidious of fine print written into the bill by the AFL–CIO's Legal Foundation as they drafted it on behalf of their water carriers on the committee. I can tell you that I have no doubt in my mind there is no member of this committee that is more able, more dedicated nor more professional in his committed service to the public's interest in defiance of special interests than the gentleman from Illinois [Mr. FAWELL].

Mr. Chairman, when I first got on the Committee on Education and Labor, I was confused. As a labor bill would be brought up by the majority, and only those that were introduced by a member of the majority were ever brought up, I would naturally ask myself the question, how will the working men and women of America be served by this legislation?

□ 1530

I can never, in all my 8 years, think of one bill that did service to the real working men and women in their real jobs in the real country. And I was confused.

Finally, I got a tip. I read in Time magazine, on June 22, 1987, a gentleman by the name of Howard Samuels, who was the president of the AFL–CIO's Legal Foundation, as he, according to Time, boasted that they, they being the AFL–CIO Legal Foundation, according to Mr. Samuels, and I quote, "We control the committees and the agenda on the floor."

In all the 8 years I have been on this committee, I have seen not one speck of evidence that might refute Mr. Samuels' candid observation of their special, self-interested power with the majority of this committee.

And so I look at the bills taken up by the majority with a different view. I ask, if it is, in fact, written at the AFL–CIO on behalf of itself or their other big labor organizations, who will be served?

Certainly they want to do some service to their declining ability to organize free American workers into unions where their money is siphoned off for any number of purposes, much of which to promote political candidates that will work contrary to the interests of the workers, as Mr. Beck found out, to help the union lawyers, Harvard-trained union lawyers who maybe never have spent time in their life on a job getting their hands dirty, who sit in big offices here in Washington, DC, looking for chances to impose lawsuits on the work force of this country and the employers of this country for big labor stipends. Yes, they work on behalf of them. But who works on behalf of the working men and women of this country?

Let me tell my colleagues what this is about. When I was 18 years old, I went to work for a construction company. We were a backward State. We had the idea that people that had worked on the job for years would know about that job and could train young people. I went to work as an apprentice lineman, dangerous work, hard work, heavy work.

Mike Berg, who had worked on that job for 20 years, taught me how to climb a pole and how to keep safe on that pole. He had been there doing that job, and he cared about whether or not I would live or die. And he was accountable, if something happened to me.

Others on the crew, men, working men and women who knew the job and did the job taught us youngsters how to do it.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. And they kept us safe because they cared about our physical abilities.

Then we had a bureaucrat from the State who came out to supervise us and to teach us how to be safe. His name was Gill Mowers. he had never climbed a pole in his life. He did not understand a come-along from a coffin hoist. But he had had a course in first aid. So that if, in fact, we followed Mr. Mowers' advice instead of Mike Berg's and we injured ourselves, somebody would be able to put a bandage on us. And we learned not to listen to these goofy bureaucrats from the State but to listen to the real people on the job.

Now, today, my young nephew is still, after 3 years, in an apprenticeship training program administered by the Gill Mowers of the world. He has not yet found a job because the union has not placed him in a job. What right of that young man to work, as a free American, has been served by these apprenticeship programs? The sponsors of the legislation have had the gall to stand here and say, "We have spoken to the people in charge of the apprenticeship programs in every State in the Union and they want this."

Well, hell, yes, they want it. That is their bread and butter. Do they care about the guys that are trying to get a job out there? They care about themselves.

The union bosses want it because they do not want anybody working on a job in this country where they cannot rake off some of their money to support their political cronies whether the workers like it or not.

I am telling my colleagues, I have come to the conclusion that if, in fact, the Committee on Education and Labor majority brings a bill to this floor, it is an intellectual and moral sham on behalf of some self-serving special interests that are practicing the politics of greed and wrapping it in language of love and destroying the chance of our children to learn a trade and work in this country.

Vote for the gentleman from Illinois, [Mr. FAWELL]. Vote for America's general public interest instead of a bunch of union bosses in Washington, DC, that do not even have the decency to care about the people who pay their salaries.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the language before us. It is very simple legislation, for those who will take the time to read it.

It is quite obvious that the speaker who was just in the well approaches an issue like this so angry before he gets to it that he probably does not have much success with reading it.

I would like to extend my sympathies, as the chairman of that committee, to any Member who has served 8 long unsatisfying years on a committee he hates in a state of confusion. There is a solution to that, I might suggest to the gentleman. It is not within my power, however, to solve his problem. It is something he has to do for himself.

The legislation before us today is one of the shortest and simplest bill I have ever brought to the floor of the House. It has a narrow purpose—to restore three kinds of State laws that were mistakenly preempted by ERISA, the Employee Retirement Income Security Act of 1974. These laws are important to the States, they are important to the multiemployer plans that are affected by them, and they are critically important to the millions of workers—largely construction workers—who are protected by them. And none of them was intended by the Congress to be preempted.

The first kind of State law we would preserve are State prevailing wage laws, which protect local labor standards against being undercut by public works. Thirty-one States have such laws, which protect contractors and construction workers by requiring the State to determine what wages and benefits are typically paid in an area, and then to see to it that State-subsidized construction work is bid and performed at compensation levels no lower than those found to be prevailing.

How does ERISA, the pension protection law, impact on prevailing wage laws? ERISA says that it supersedes any State law "insofar as it relates to any benefit plan." Thus, though there is no real conflict between the State laws and Federal law, because they require the payment of prevailing benefits they relate to benefit plans and are preempted.

Even those who do not sympathize with the purposes of the Davis-Bacon Act should defend and support the right of State governments and their subdivisions to regulate their own State-funded or State-subsidized construction and public works. Without a clear Federal purpose, which is absent in this case, the Federal Government should not attempt to control how the States spend their own construction dollars.

The second kind of State law we would preserve are the 50 State apprenticeship laws. In a weird misreading of not just one, but two Federal laws, and without a shred of support in the legislative history of ERISA, the courts have preempted every State law that sets minimum standards for the training and certification of apprentices.

As you know, America's apprenticeship system is the product of a 55-year-old Federal-State partnership established by the Fitzgerald Act in 1937. The act encourages the States to "form and promote standards of apprenticeship," which they have done, without exception, throughout six decades. The result is the finest occupational training system in the Nation, and perhaps the world.

But suddenly, a few years ago, the courts began striking down State apprenticeship laws as preempted by ERISA. Why? Because the act's definition of employee benefit plan includes apprenticeship or other training programs and all State laws that relate to employee benefit plans are preempted, the courts have invalidated the Federal-State apprenticeship system.

These decisions have been devastating. The State standards protect the health and safety both of apprentices and their fellow workers and the public. Journeyman to apprentice ratios are critical both to construction quality and to the proper training of apprentices. Minimum requirements for on-the-job training and related classroom training are the heart and soul of quality apprenticeship. They ensure that apprentices will become versatile, experienced, and highly skilled journeymen.

The courts are tearing down this system, but they have nothing with which to replace it. The 93d Congress, which wrote ERISA, could not have intended and did not intend this result.

The third kind of law which we would restore are State remedies for failure to pay contributions to employee benefit plans. The most important such remedy is the mechanics' lien, the traditional means by which workers secure payment of their wages and benefits for the work they perform in erecting or repairing a building or other property.

Mechanics' liens give the workers a property interest in the real property they improve with their work, until their wages and benefits are paid.

This secured interest is critically important in the construction industry, where employers are mostly small, geographically mobile contractors who hire their employees on a short term, per project basis. It is common for these contractors to go bankrupt, to dissolve, or simply to disappear.

Many contractors routinely change their names and legal identities. Some will change their business name several times a year. Without a lien on the property to secure their wages, workers and their benefit plans would often go unpaid. The States have recognized this harm and taken action to prevent it. And no Federal interest warrants undoing the protections the States have developed.

The administration recognizes the importance of these State laws. The Department of Labor's position paper on H.R. 2782 states, in part:

> We agree that it is important for multiemployer plans to have effective collection remedies. Not only does the inability to secure payment from delinquent employers undermine the plans, but it adversely affects the other contributing employers who may have to make up the shortfall.

DOL goes on to say that exempting such remedies from ERISA preemption "would not require plans to comply with inconsistent administrative/regulatory schemes imposed by various State laws."

I urge my colleagues to join with me in restoring State sovereignty in these three well-defined areas by voting for H.R. 2782.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know if there is anyone in this body who is more conscientious and sincere in his efforts than our colleague, the gentleman from Illinois [Mr. FAWELL]. I mean that sincerely and personally.

But sometimes we come up with different interpretations. Sometimes we come up with different conclusions. And in this case, I simply have to disagree with my colleague from Illinois, and I have to oppose his amendment. And I want to call on my colleagues on both sides of the aisle to oppose his amendment as well.

When we began consideration of this bill in the Committee on Education and Labor, as my colleagues have heard, if they listened to the debate, there were three major issues. There was the prevailing wage issue, which thanks to our friend, the gentleman from Michigan [Mr. HENRY], I think we have come up with an accommodation on language.

There was the mechanics' lien issue, which I think there has been little debate about. And there is the apprenticeship issue.

I feel very strongly about the apprenticeship issue. I feel very strongly, and I want to say to my Republican colleagues, everything that we have been advocating as Republicans on apprenticeship has been sending it back to the States.

My colleague, the gentleman from Pennsylvania [Mr. GOODLING] and I have introduced apprenticeship language or apprenticeship legislation that sends primarily the bulk of that responsibility back to the States. The Department of Labor and President Bush have sent up legislation on apprenticeship that sends the bulk of that back to the States with only the concept of some basic guidelines here at the Federal level in a leadership role.

The reality of all of that is that every one of the States are running apprenticeship programs today.

In a week or two, we are all going to be back here. We are going to be debating an entirely different issue. It is going to be debating an entirely different issue. It is going to be the Freedom of Choice Act. Every one of my colleagues is going to say to those advocating the Freedom of Choice Act, "For gosh sakes, let the States set the standards."

My only plea to my colleagues today is, be consistent. Today also let the States set the standards.

My good friend, the gentleman from Illinois [Mr. FAWELL], suggests that somehow that the Fitzgerald Act prevents us from allowing the States to set standards in apprenticeship programs. I just disagree with him. I am going to read to my colleagues.

Under the Fitzgerald Act, it says, "The Secretary of Labor is authorized and directed to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices."

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It goes on and gives a number of different options, including "to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship. * * *" So all the way back to the Fitzgerald Act the concept of States setting standards in this area has always been in existence.

The fact is today States have the ability and the authority to set standards, to establish wages, to set terms and conditions of indentures, and other regulations. That is part of the problem of why this bill is here, because we are in a no man's land right now. With the Hydrostorage case we have, in essence, said, "States, you cannot do it. You cannot set standards on apprenticeship programs if in any way, shape, or form they can be interpreted to be wages or benefits."

At the same time, unless we are all going to advocate a national apprenticeship program running from Washington, and I cannot believe any Republican would advocate that in 1992, we have a problem, because we then have a conflict. We have a conflict between the concept of allowing States to regulate apprenticeship programs and ERISA.

If the Members believe that ERISA ought never be preempted under any case, under any circumstance, under any condition, then vote no on this bill. But I happen to think that in this case it is far better to take ERISA out of apprenticeship and have 50 States design and adapt their own unique apprenticeship programs than it is for us to say, "We are going to have ERISA, apprenticeship programs be damned."

We can disagree on that, but it would seem to me that we do much more to help people by taking those apprenticeship programs to the State.

The reality is that the legislation before us for that very reason has been endorsed by the National Association of State and Territorial apprenticeshipship Directors. It has been endorsed by the National Association of Government Labor Officials.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 4 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, if the Members will look at most of the cases, whether it be the Hydrostorage case or the other examples that are being used here today, I want to again plead to my Republican colleagues, most of these cases were disputes that occurred in California. Most of these cases were cases that occurred when the State Apprenticeship Council in California was under the direction of then-Gov. Ronald Reagan.

We might not always agree with what Ronald Reagan did or did not do, but certainly he had the ability through the appointments to change who is on that State Apprenticeship Council in California. I think that concept of letting States decide who is going to be on their apprenticeship

council and the conditions they are going to set makes all the sense in the world. If we have, God bless them, a prounion State that sets all kinds of prounion standards for apprenticeships, then take that industry and move it to a nonunion State. That is the risk they run. We can travel with our feet in this country. There is no economic advantage for a State to lock up an apprenticeship program so tight under the mold of being union that it destroys the apprenticeship program altogether.

What would be jeopardized if we passed this amendment is not only the rest of the legislation, but as my staff talked to our State apprenticeship director in Wisconsin, we go beyond just the Hydrostorage case. If this amendment is adopted, the Members are then not going to give any State the authority to regulate the ratios of journeymen to apprentices. Do the Members want that? They are not going to give any State the authority to regulate wages of any kind for apprenticeships. Do we want that? We are not going to give the States the authority to regulate the amount of classrooms required or the amount of on-hands job experience required. Do we want that?

In 1992 when both candidates for President, when both parties, when everybody in this country is crying out for a comprehensive manpower policy in this country, are we going to today, just to show that we are antiunion, destroy every initiative in the apprenticeship programs that is moving in the direction of the States and empowering the States to deal with the whole concept of high school and prep tech and the 50 percent of the public that does not graduate from college? I hope not.

I plead with my colleagues on both sides of the aisle, do not make this a labor issue. Do not make this a union versus management issue. Make this manpower issue. Make it a States rights issue that gives those States the authority to develop their manpower programs, their training and retraining programs, of which apprenticeship is one key part. Vote "no" on the Fawell amendment, and pass this bill on a bipartisan basis.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman's statement. I want to commend the statement of the gentleman in the well, and draw the attention of my colleagues that this was the type of bipartisan agreement and consideration that we heard in both subcommittee and full committee. The antiunion vituperative comments that have come out today were not evident at subcommittee or full committee, and as chairman, I am frankly surprised by them, but delighted by the bipartisan, thoughtful statement of the gentleman in the well.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I obviously have the greatest respect for the gentleman from Wisconsin, and it pains me that he is on the other side of this argument.

First of all, I want to make it clear that the administration, of course, oppose this bill and will continue to oppose it as long as these kinds of provisions are in there.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 2 additional minutes.)

Mr. GUNDERSON. I yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I just want to get the gentleman's attention. ERISA, of course, has been going for 18 years and nobody has really complained in regard to the fact that it does say to employers and employees, "You folks get together, with unions too, and work out this thing that is called an apprenticeship program," and we do not want to have to put you and the employees at the disadvantage of having, as this bill would prescribe, to have every State government, every county government, every local village or city having the right to come up with its own apprenticeship program.

Would the gentleman not say that over the years, and by the way, the Hydrostorage case just recently came out, and the gentleman is right in saying that there are not many that are complaining about the present system until we had this problem in California, and they wanted to solve it by changing everything.

They could even change, for instance, as I understand an apprenticeship program, the State apprenticeship council can dictate into that apprenticeship program that which I know the gentleman is against, the concept of putting into ice and stone the definition of "apprentice," and elbowing out the definition of "helpers;" indeed, in those States, and there are about five or six that give a lot of problems here, that is what they can do.

As I know apprenticeship programs, when we have standards, even such as X number of apprentices to journeymen, people are not filing lawsuits over those kinds of things. They are filing lawsuits when somebody with ERISA, or a GE with 3,000 employees, I know the gentleman has undoubtedly considered those points, but the gentleman's reply would be appreciated.

Mr. CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has again expired.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by our good colleague on the committee, the gentleman from Illinois [Mr. FAWELL], and in support of H.R. 2782.

First, let me take exception to the remarks that were made by the gentleman from Texas [Mr. ARMEY] in his vehement antiunion address.

I would like to inform the gentleman that I do not believe our committee is controlled by any other outside force other than our constituents, who send us there to represent their respective interests.

I want the gentleman to know that in this particular measure is one of the best examples of how the members of the committee on both sides of the aisle worked for many months in working out the details of the legislation to correct what we believe is an erroneous series of court decisions interpreting the original act, working with the minority, the gentleman from Michigan [Mr. HENRY] in trying to work out amendments that would make it much more palatable for everyone involved in this legislation.

□ 1550

And I almost know that in 1974, had the gentleman from Texas been here, he would have opposed the original act. It was not intended at that time that we would supersede 31 State laws in various degrees concerning the implementation of their labor protection acts. And even though the courts found that that was the case, then let us set that aside. That argument is now gone from us.

But I would hope the gentleman from Texas and every member of the committee and every Member of the House would respect the rights of the States to protect their labor people, their wage earners in the respect that they have in the various labor agreements. All we attempt to do is say that if we erroneously in 1974, this body, this Congress said that we should supersede all of these 30, and yes 50, States in their labor laws, that today we intend to correct that action. And it surprises me that the gentleman from Texas, who is constantly on the floor arguing for States rights, States right, that he would stand up here and say that now in this regard we do not recognize the States rights when they are out protecting the people who work for a living in those States.

We are saying that those State laws respecting employee benefits, prevailing wages, when they are protecting the contributions to their retirement plans, when they are talking about retraining programs and training programs, they have a right to adopt the maximum protection that they want, and that this Congress, this body will establish today that we do not have the right, we do not have the desire to overrule. And that the mechanics lien

laws in the States, contractors and employees of those contractors shall continue to be protected.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Let me just remind the gentleman that it was not my assertion that the committee is controlled by the unions, but it was that of Howard Samuels, the chairman of the Legal Foundation of the AFL–CIO in Time magazine on June 22, 1987. So if the gentleman argues with that contention, the argument should be with Mr. Samuels.

Mr. MURPHY. Or Time-Warner magazine.

Mr. ARMEY. I am just relating to the gentleman Mr. Samuels' assertion.

Mr. HAYES of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not come here before Members with any prepared statement, but I do come before Members with some various experience in the area of this discussion. I am one who remembers, as a leader of labor, when ERISA was passed. As a matter of fact, I was a member of the Illinois State Federation of Labor and argued for that kind of a bill and legislation for protection for working people.

I am somewhat shocked at some of the remarks of my colleague from the State of Illinois, from which I come. Maybe I should not be because we have sat on the committee now together. I have been there for some 9 years. I have always had the view, and he proves it here today, that he represents not only a different part of the State of Illinois from me, but his views represent a different group in our society.

It seems to me that he is more inclined to agree with some employers, not all of them, because I have negotiated with employer who agree with the position that we are taking here in the promotion of this bill we are talking about today.

I do not understand why we cannot be more broad in our views and try to legislate based on all aspects of our society. After all, when you stand up here and bash unions, you must realize that they only represent roughly 16 percent of the working force in this great Nation of ours. So we are talking about legislation that not only benefits union workers but those outside of unions. We are talking in the main about workers in the building trades.

I have not always agreed with some of the positions taken by some of the leaders of the building trade organizations, because there was a time when there were barriers based on race and gender that even barred us from being a part of the apprenticeship programs which we are talking about protecting here today.

I see nothing wrong with the restoration of some of the things in the power of ERISA that have been taken away by the action of the courts through the years that we are talking about.

And I hear us talking about labor lawyers, and the fact that they come from here in the city of Washington, DC. Most companies have lawyers, and employers have legal representatives that certainly make more money and are much richer than the lawyers that represent unions or the people who represent the people who are the lawyers here who are Members of this Congress.

So I think we ought to at least tell the truth when we stand up here and stand up for that which is right. Support all of the people. We pay the taxes for this organization, this great Nation of ours which supports the Members of Congress through our taxes. God knows we should not have this situation. Most of the members of the construction trade do not live in the city; they live in the suburbs where some of our Members come from and represent their interest.

Please oppose, with all of the vigor we can muster, this amendment. I am surprised it takes this kind of energy. I hope we can demonstrate some of this when we start talking about trying to solve the economic crisis that confronts the building trades, the industrial trades in all of the sections of this country. I want to see some of this kind of vigor about a public works program, and yes, about rebuilding our infrastructure which requires the usage of building trades people.

I do not want to ask for any more time. I just want Members to vote down this amendment and vote for the bill itself.

Mr. Chairman, I rise in support of H.R. 2782, and against any amendments intended to disrupt the original direction of this bill. As you know, Mr. Chairman, this bill restores a number of very important and long-established worker protections under State law which have been preempted by ERISA in a series of court cases. It would restore State laws that required the payment of prevailing wages in construction, apprenticeship training laws, and laws establishing remedies for collecting contributions to multiemployer plans, which have all been thrown out on ERISA preemption grounds.

This legislation is critical to the protection of worker rights, and I urge my colleagues to support H.R. 2782 and to vote against any damaging and disrupting amendments to the bill.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that all debate on this amendment end by 4:15. That is within 15 minutes.

Mr. ARMEY. Reserving the right to object, Mr. Chairman——

Mr. WILLIAMS. Mr. Chairman, I withdraw my unanimous-consent request, in the interest of comity.

□ 1600

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Fawell amendment and in vigorous support of the passage of H.R. 2782, which clarifies the preemption clause of ERISA.

Mr. Chairman, I happened to have been a Member of Congress at the time ERISA was passed in 1974, and I recall the very vigorous debate that ensued for many years with respect to the ability of the Congress to understand the importance of a uniform piece of legislation that governed all of the employee pension benefit plans. One of the struggles that came up for discussion repeatedly was the fact that we had a very mobile work force that moved from State to State, and in some cases could not benefit from pension plans and contributions that they had made in one State when they moved to another, and as a consequence, Congressman John Dent of Pennsylvania, the chair of that subcommittee at that time, worked very hard to pass the first legislation on ERISA.

I do not recall at any point during that debate, or any time during my service in Congress during that time, that there was any intent on the part of Congress to control what the States and local governments did with other aspects of benefits that the employees might gain from such as training, apprenticeships, prevailing wages, and mechanic liens, and so in rejoining the Congress 2 years ago, I was quite surprised to find this raging debate as a result of various court decisions that had interpreted ERISA far beyond the scope and breadth that was intended in 1974.

The argument today is very simple. Is this Congress going to return to the original intent of ERISA as enacted by the Congress in 1974, or is it going to allow the courts to legislate in the field that so traditionally belongs to the State and local governments?

I find it very amusing that we find ourselves today on this side of the aisle defending the rights of States to have exclusive jurisdiction over matters that pertain to matters relating to workers, because it has so traditionally been the argument of Members on the other side of the aisle to argue that States' rights should have a preeminent policy in governing this country, and yet that is really the issue today.

Do we want the courts to interpret a congressional enacted law to specify that ERISA preempts the States from deciding what kind of prevailing wages and under what circumstances governing their government contracts on the local scene should prevail, or should this be manipulated and autocratted by the Federal bureaucracy?

Similarly with the apprenticeship programs which have been clearly put in place by the Federal Government with strict standards allowing the States to form these joint committees,

and I remind the opposition, those in support of the Fawell amendment, that these joint committees are not union committees. They are joint committees, at least those that I am familiar with in my own State, with management and labor coming together understanding the mandate of this Congress under the Fitzgerald law that there be strong apprenticeship programs, training people, not for the purpose of just having training but because it is essential to the products that we want to produce with Federal dollars and tax dollars so that it can stand up to the strict mandates of construction standards and worker safety and so forth and so on.

So it seems to me very simple that what we are asking the Congress to do is to reinstate the intent of the law as it was originally passed in 1974, and to leave to the States these areas of wages, training, apprenticeship, and the enforcement of mechanics liens to the local governments who best know their own local circumstances and, therefore, ought to be given the opportunity to enact laws and to make them applicable to their work force at home.

I hope that the Congress will look at this not for the heat of the debate that has been engendered this afternoon, but for the very simple essence of what we are trying to do, and that is to restore the act as it was, nullify what the Supreme Court and other courts have said in this instance which expand it.

I mean, I have heard so many people argue that you should not let the Supreme Court write law or stretch the meaning of laws that Congress passes. Well, this was clearly a case in which the courts did exactly that. So let us restore that original premise, allow the States States' rights in an area which has traditionally been theirs, and vote for the passage of H.R. 2782.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Frankly, I rise in opposition to the tone of the remarks and the insinuation that a committee of this House, the Committee on Education and Labor, and the people that serve on that committee, to be in any way controlled by any particular group.

That committee is a good committee, and I respect the leadership that the gentleman from Michigan [Mr. FORD] has brought to the Education and Labor Committee; fair-mindedness, the wisdom and deliberate consideration of this by the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS], the heart and soul really as represented by people like our friend from Chicago, the gentleman from Illinois [Mr. HAYES], who has served on that committee.

I think that the members of the Education and Labor Committee have a tough job, and I think they worked some very long hours dealing with topics that are obviously highly emotional. I regret that Members who do not get their way in terms of policy on such committee, but if that committee is solely and wholly defending a particular interest group, especially labor, they have had a very tough go of it the last decade especially when I observe what has happened to working people in this country and with regard to national policy the last decade.

So I just want to make it clear with regard to this Education and Labor Committee and the excellent job they do and I have a great deal of respect for both their dedication and work product. I have a great esteem for the work that is done on a day-by-day basis for the bread and butter of people across this country in terms of labor representation, and I think that the demise of labor in this country and the nonapplication of the National Labor Relations Act, which we are not debating today, but some remarks may lead those viewing this debate to believe such was the issue, we are not debating that. I thought that labor's role in the free enterprise system and the rights of workers was something that most of us would have taken for granted in 1980. But I guess the question today, 12 years later, is that it is clear to me that such labor rights, the rights of working men and women, no longer can be taken for granted.

You know, so many economic problems in this country in terms of where we are at would be, I think, resolved if we just empowered and gave people the opportunity to receive a decent living, working wage, in this country. But sadly that is not the case today, and so we are faced again on the floor of this House to come to the defense of working men and women with regard to their retirement benefits.

When the 1974 ERISA law was passed, the purpose of this act was to try to project retirement benefits. Employee Retirement Income Security Act is intended to safeguard the retirement benefits, because people were promised benefits, and they were denied them.

The employees of Minneapolis Moline, White Motor Co. in our communities in Minnesota, was front and center in terms of working people being promised benefits and denied them.

In the process of passing this and the application of this ERISA law today 18 years later, in the enthusiasm to enforce this law, all of a sudden the Department of Labor is going to eliminate the States' role in terms of a host of labor policies, mechanic's lien laws; the issue, for instance, of prevailing wages, and, finally, apprenticeship councils and apprenticeship rules and guidelines are going to be undercut.

The National Government does not spend all of the money on the education and training in these States, but somehow there are people in this body apparently, and the courts, and the Department of Labor who think we ought to have the preeminent position to dictate from inside the beltway here what goes on in all 50 States, that the States that spend the money that have the successful programs, ought to have less to say. Think about it. What the apprenticeship programs across this country are, and they need more of, not less apprenticeship programs.

Do you want to discourage these States by dictating from Washington once again what goes on without money or very little money?

You know, the construction trades are being pushed out front for criticism in this process, especially those who are members of labor unions, and the respective apprenticeship programs. The U.S. building trades constitute the most productive construction workers in the world. That being the case being made, and if that is the case, I think we ought to let them continue to do what they have done so successfully. We need this particular type of competitive advantage and success. We need that type of training and skill on as a competitive American advantage today. We ought to leave them do the job they do, the apprenticeship program that are being well done, and we ought to act on this bill and change the law to modify the court interpretation which I think is inappropriate impact and, overreaching and provide the proper intent, to protect the retirement benefits of workers.

We ought to leave the State apprenticeship councils to do their tasks, and the State councils to accomplish the good apprenticeship programs that they have created and developed, not use the apprenticeship programs as some sort of a spoils system at the national level where the winner is going to take all and dictate, and I think, in the end, cause a deterioration of many of these good apprenticeship programs.

So vote against this amendment and vote for the bill before the House today.

Mr. Chairman, I rise in support of H.R. 2782, which will set straight the application of the Employee Retirement Income Security Act [ERISA] and reverse the egregious interpretation by the courts of the preemption clause contained in the 1974 ERISA law. No one would have guessed or thought that is was the intent or effect of the national ERISA law to prevent States from determining the wages that should be paid on State construction projects paid for with State funds. I do not believe that anyone would say that this was the case. That was not part of the debate or issue of difference, but the courts aided by the Reagan and Bush administrations have used this good law [ERISA] to achieve and implement unrelated and unreasonable policies.

Could it have been the intention of anyone in the 1974 Congress enacting this law to undercut State apprenticeship programs which promote training, work, quality, productivity, and job opportunities? Of course not. The

amendment before the House today will maintain the integrity of our national apprenticeship programs. Today such apprenticeship programs are threatened by the Bush administration's Labor Department which has attempted to ignore a congressional prohibition last year which barred the issuance of new regulations governing apprenticeship programs which would abolish journeyman-apprentice ratios, minimum hours of classroom instruction, and abolish State employer-employee apprenticeship councils. The Bush administration's Labor Department has even gone so far as to propose the creation of an entirely new category of so-called helpers who are guaranteed to provide a pool of low-wage labor for contractors and all such actions under the rubric of ERISA as interpreted by the Reagan-Bush courts and administrations. Fortunately for apprentices, last week the House defeated the Stenholm amendment to the supplemental appropriations bill which would have given the Labor Department a green light to go forward with its ill-advised new rules.

Mr. Speaker, Congress in the 1974 ERISA Act and since has consistently rejected such wholesale thoughtless implementation of and negative reach applied to this important law. Yet another example is the attempt to gut State mechanic's lien laws which benefit workers by securing the payment for work already performed which is being interpreted to be preempted by ERISA. Mr. Speaker, the measure before the House is the vehicle to straighten out the abuse, the misuse, and the distortions which have undercut the ERISA language and workers as a result of court decisions abetted by the antiworker rights administrations.

It is absolutely essential that we pass this bill and enact it into law to make certain that the rights for workers and their families are protected, especially in this period of economic distress.

It is ironic that the basic ERISA law so important to safeguard workers' retirement benefits, to provide certainly and prevent the ripoff of workers' pensions has been converted into a law which adversely affects workers' rights. It is a travesty that this law [ERISA], a great labor victory, has been turned into a scourge to punish workers.

If we do not enact this bill, worker training, which is so important during this period of high unemployment, will be jeopardized. Furthermore, during this prolonged recession and structural economic period of change, job opportunities in construction, already limited, will be ratchetted down from fair compensation. Congress should not permit courts to decide based wholly on the ERISA statute that States cannot set a fair prevailing wage rate on construction projects paid for with State and local funds. By the same token, Congress must not allow conservative courts to strike down State mechanic's lien laws that may be the only way for workers to receive pay for work already performed.

Mr. Chairman, I strongly support this measure and urge passage of this bill.

□ 1610

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment. I have had brought to my attention a number of proposals that people would like to make at the State level and elsewhere to protect the rights of working people, retired people, divorced spouses, and others. They find themselves not only preempted from doing so, but accidentally preempted.

No one, I believe, argues that the kind of very far-reaching preemption that now is considered to exist was intended.

Clearly, ERISA is not just a preemption. It is a preemption with a penumbra outside of the ninth amendment. So I hope on the merits we will allow the States to act sensibly. No one is arguing for the right of the States to interfere with the scheme set forward to protect pension rights.

What we have is people trying to take advantage of I believe some inadvertence, and we are trying to correct it.

But I want to also talk about States rights in general, because I think what we are seeing today ought to further help us lay to rest the notion that the Republican Party is the party of States rights and localism.

In fact, there are virtually no people left in American politics today who prefer things being done at the State level, nor are there people who prefer them being done at the Federal level. What almost all of us prefer is that the issue be decided at that level where we will get the outcome we best like, and I think that is perfectly reasonable.

We do not live in 1790. Some of us from time to time evince a severe wish that we did, but most of us do not, and in fact none of us do. We live in a very different time from the time of the Constitution. While we have people in this body who are Hamiltonians on Monday, Wednesday, and Friday, and Jeffersonians on Tuesday, Thursday, and Saturday, resting of course on Sunday, neither position is terribly relevant. We have a unified economy. We have instant communication. We have various forms of travel.

So in fact when you look at this interconnected American economy, the sensible position is to say, given my values, given my view of efficiency, how should this problem be best dealt with and how should that problem be best dealt with, and there is nothing the matter with that.

What I find wanting is the pose of people who claim to be for States rights and for local activity and against the Federal Government, unless they do not like the outcome.

We have today a number of people in this body who profess conservatism, denouncing the notion of States rights and arguing for a Federal regime.

I think that the gap between their professions of today and their principles on other days is quite wide.

But I would caution some of my colleagues, let us not get too carried away with the States rights sweater. I do not mind wearing it today, but let us not plan to live in it for the rest of our lives.

We will be dealing with other issues where many of us will argue that there ought to be a preemption. The point I am making is that the error here I think is the inconsistency in pretending to hold to a general position, when in fact no one does.

We will be arguing about whether or not we should be preempting credit, and some of us will be arguing that we should not have the Federal law preempt credit.

On the other hand, there are areas where we want the Federal law preempted. In particular, I would warn my conservative friends they ought to be a little bit careful, because it is conceivable that Bill Clinton will be President.

The vigor with which many of my conservative friends are today defending the Federal Government obviously is related to the specifics of the Federal Government. We have the most antilabor administration in power today that we have had in a long time. Well, I take it back. We have the second most antilabor administration. The Reagan administration was the most. These people are a close second.

What we have are people who because they so enthusiastically support the antiunion stance of the current administration that they are prepared to impute to the Federal Government a wisdom and a perfection that they will not long believe in if things change.

Now, that was perfectly OK to say as long as George Bush was running the game, "I want it to be this way, but with Bill Clinton I want it to be that way."

But I warn my friends, be careful with some of the words you are using, because there may very well be a change.

In fact, what we have gotten is very little on the merits. We have gotten denunciations of the very temerity of organized labor for even trying to exercise its viewpoint. How dare they act as if the Constitution of the United States applied to them?

No one has been defending the argument that there should be preemption on the merits because it is so inherently weak.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentlewoman has already once stricken the requisite number of words on this amendment. Without objection, the gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 5 minutes.

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I must address this question of States' rights and how it relates to the preemption issue. I know that my colleagues on the Banking Committee,

both in Minnesota and from Massachusetts, were not referring to me when they were talking about inconsistencies on States' rights; so I think I can speak with some credibility on this subject, and also as the ranking member of this subcommittee.

Aside from the rhetoric that may have gotten away from some of us, I want to make it very clear to our colleagues here that we are not arguing some abstraction on the subject, or some discrepancy on the subject of States' rights versus preemption.

We are not talking about States' rights. Contrary to what we have heard here, actually most State programs, apprenticeship programs, are going to continue with this bill or with the amendment of the gentleman from Illinois [Mr. FAWELL], either way. Most of those State programs are going to continue. That is not what is at issue here. The issue is the scope of certain mandates here and how it covers either union or nonunion apprenticeship programs and their relationship to welfare benefit programs, and that brings us to ERISA and the preemption issue.

Yes, ERISA preemption on a bipartisan basis since 1974 has said that there is an overriding public good and interest here and that we cannot have a cohesive voluntary pension system if everybody is going off in all different directions, and so they gave the right to preemption and it has served us very well over the years. So do not confuse certain fealties to States' rights versus Federal mandates with the ERISA preemption argument.

My concern here, as I know it is that of the gentleman from Illinois [Mr. FAWELL] as well, is ultimately for what the impact regardless of how the mandates are interpreted in the individual States, what the impact is going to be overall, whether or not they will be consistent with the fiduciary and the reporting responsibilities under ERISA. That is the final and ultimate issue that we are concerned with today and it is not to be trivialized by an argument between States' rights or Federal mandates.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentlewoman for yielding to me.

She is correct, and my references to a certain logical gap in people's positions, I was not referring to her.

I would have to say to my friend, the gentlewoman from New Jersey, that I realize she cannot be held responsible personally for the arguments that she happens to get burdened with on her side, but she cannot expect us to refrain from commenting on them, either.

Mrs. ROUKEMA. Well, reclaiming my time, Mr. Chairman, I am very happy to be associated with the gentleman from Illinois [Mr. FAWELL] here on this amendment, because I think he has targeted on a proper issue here.

Finally, I just want to say to all my colleagues, whether you understand the history of the Hydrostorage case or the whole history of ERISA since 1974 or not, you must understand that what we are trying to protect is the voluntary pension system here, protect the fiduciary responsibilities, make sure that they are well funded and not corrupt and create a system whereby we can expand those voluntary programs, rather than correct them.

Our concern is that the more States go on their individual ways, the more we are going to contract the system and the more small businesses particularly are going to opt out of the program.

Finally, Mr. Chairman, I simply want to say that senior officials at DOL have again reiterated to me and our side that a veto will be recommended if this Fawell amendment is defeated.

Support the Fawell amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have got to say that this is a very interesting debate. Before he leaves the floor, and maybe the gentleman is not leaving the floor, the gentleman from Massachusetts in his presentation, I congratulate him because he is an honest man. If you read his book, he is very honest about his feelings and about what he was saying. I think I interpreted from his speech that he feels that the Constitution is irrelevant in today's times.

□ 1620

And he is very honest about that. I wish other Members of the House were just as honest.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, in fact I alluded to the Constitution with some reference, for instance, supporting the right of people in organized labor to lobby and make representations. What I said I thought was irrelevant, frankly, was a distinction I would have made explicit, the distinction between interstate and intrastate commerce. My view is not only that I think it is essentially irrelevant, I think virtually every Member of this House does. That is the distinction between the interstate and intrastate commerce that made sense in the economy physically of 1790, I think is far less relevant today, and I believe it can be easily documented that every other Member of the House thinks that as well, only that part.

Mr. DELAY. With that, I am very interested in this debate because I am struggling with the States' rights issue, and therefore I yield to the gentleman from Texas to better explain his position.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I appreciate having a little bit of time to correct the RECORD.

One of the fun things about debate on the floor of the House is, no matter what you say, it is fun to stay and see how it gets spun around by the other people in the debate. I have been spinning like a top here, thanks with the help from my good friend, CHARLIE HAYES, of course, the gentleman from Illinois, who had a distinguished career as a union official before coming to Congress. He spoke eloquently on behalf of union officials, as one might expect.

I think we at least ought to correct the RECORD. I have no problem with union members, I have no problem with unionization, I have no problem with collective bargaining. What I have a problem with is union bosses who sit fat and sassy in Washington offices, taking union dues from hard-working men and women and then sponsor legislation that does no good for those men and women in the world who are paying the union dues, but takes care of the union bosses in Washington, DC. If in fact they were representing their members, they would not find, one, their members declining in number; and, two, being virtually impossible, without coercion by the Federal Government, to recruit people to membership.

Furthermore, I would like to make the point this is not about restricting a State's right to define its own apprenticeship program for its own workers; it is about whether or not a State like California that may have a whacky apprenticeship program will have the right to impose the requirements of that program upon the workers from a same State like Texas or Alabama or Wyoming or any other State.

And finally, let me just say, if in fact the liberals in this body find it somewhat incongruous for them to understand our protecting State rights in the way we are today, I might say I find it fascinating that they would dare to come before Congress and the American people and protest our judicial activism even in fact when they do not find it there.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Illinois.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Chairman, debate like this is good no matter sometimes how we get heated up. The gentleman from Massachusetts [Mr. Frank] made one statement, I do want to clear the record there; he said, in reference to apprenticeship programs, that we are talking

about an accidental preemption. By no means. I mean, 18 years ago it was carved in very, very clearly that these types of programs and other training programs would absolutely be covered by ERISA. And ERISA has been an outstanding success. I think it is getting a bum rap.

It is not States rights versus Federal rights. It is a tremendous program dealing with employee benefit program. And apprenticeship was put in there, and there were no problems, there have been no real problems. The Federal apprenticeship programs, of course, as a Federal program, are not preempted. They are getting along very well. The apprenticeship programs back in the States where we are helping children, in high school, in community colleges, et cetera, they are working very well. We are talking—and the only reason we are here, I guess—is because we suddenly have this problem flare up that is the first one in 18 years.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. I continue to yield to the gentleman from Illinois.

Mr. FAWELL. I again thank the gentleman for yielding.

We suddenly have this problem of flare-up that really is the first one in 18 years in California, where understandably unions are in trouble. You look at your constituents, and I think 70 percent are nonunion construction trades. If you tell them how you are going to vote, they are not going to agree with that. They like ERISA, they understand what it is. It has worked very well. It is no accident. It is just unfortunate that we even have to be here to debate it.

Once again I made my say, and I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I just want to say to my friend from Texas—he objected to how he was characterized—I would agree if anyone said he was spinning like a top, that was inappropriate. In his use of States rights, I think he is more like a yo-yo.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. If I have any time left, I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, to respond to the point just made by the gentleman from Illinois, there is a fundamental difference between ERISA regulation of apprenticeship programs. There is no argument that ERISA has obligations.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. I continue to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, there is no question, and no one is arguing, that ERISA does not have provisions that govern disclosure, reporting, fiduciary obligations for apprenticeship plans. The question is whether it was ever intended that ERISA preempt every single aspect of enforcement under a scheme that the Congress passed 50 years ago which said that we at the Federal level will make certain guidelines, the States will implement, enforce, and participate in these programs. We never intended to wipe out the Fitzgerald Act when we passed the ERISA preemption. We intended have some regulation. That regulation continues after this bill passes. That regulation will be clarified if Mrs. ROUKEMA offers an amendment, which we are prepared to accept. There is a fundamental distinction between a Federal role and preemption of any State role, and it is the latter that we are focused on in this legislation.

Mr. DELAY. Mr. Chairman, reclaiming my time, I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

I just wanted to say the gentleman from Massachusetts is erudite, is very fascinating, and also very rapid, and it is hard for me to keep up with it. But, please, vote "yes" on Fawell for the American working men and women.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 266, not voting 28, as follows:

[Roll No. 359]

AYES—140

Allard	Camp	Emerson
Allen	Campbell (CA)	Ewing
Archer	Chandler	Fawell
Armey	Clinger	Fields
Baker	Coble	Franks (CT)
Ballenger	Coleman (MO)	Gallegly
Barrett	Combest	Gekas
Barton	Cox (CA)	Gilchrest
Bateman	Crane	Goodling
Bereuter	Cunningham	Goss
Bilirakis	Dannemeyer	Gradison
Bliley	DeLay	Grandy
Boehner	Doolittle	Hall (TX)
Bunning	Dornan (CA)	Hammerschmidt
Burton	Dreier	Hancock
Byron	Duncan	Hansen
Callahan	Edwards (OK)	Hastert
Hayes (LA)	McCandless	Roth
Hefley	McCollum	Roukema
Herger	McCrery	Sarpalius
Hobson	McEwen	Schaefer
Holloway	McMillan (NC)	Sensenbrenner
Hopkins	Michel	Shaw
Huckaby	Miller (OH)	Shuster
Hunter	Miller (WA)	Skeen
Hutto	Montgomery	Smith (OR)
Hyde	Moorhead	Smith (TX)
Inhofe	Morella	Snowe
Ireland	Myers	Spence
James	Nussle	Stearns
Jenkins	Oxley	Stenholm
Johnson (TX)	Packard	Stump
Kasich	Parker	Sundquist
Klug	Patterson	Tauzin
Kolbe	Paxon	Taylor (MS)
Kyl	Payne (VA)	Taylor (NC)
Lagomarsino	Porter	Thomas (CA)
Laughlin	Quillen	Thomas (WY)
Leach	Ramstad	Valentine
Lent	Ravenel	Vucanovich
Lewis (CA)	Ray	Walker
Lewis (FL)	Rhodes	Weber
Lightfoot	Riggs	Wolf
Livingston	Roberts	Wylie
Lowery (CA)	Rogers	Young (FL)
Machtley	Rohrabacher	Zeliff
Marlenee	Ros-Lehtinen	

NOES—266

Abercrombie	Early	Lehman (CA)
Alexander	Eckart	Lehman (FL)
Anderson	Edwards (CA)	Levin (MI)
Andrews (ME)	Edwards (TX)	Levine (CA)
Andrews (NJ)	Engel	Lewis (GA)
Andrews (TX)	English	Lipinski
Annunzio	Erdreich	Lloyd
Anthony	Espy	Long
Applegate	Evans	Lowey (NY)
Aspin	Fascell	Luken
Atkins	Fazio	Manton
AuCoin	Feighan	Markey
Bacchus	Fish	Martin
Barnard	Flake	Martinez
Bellenson	Foglietta	Matsui
Bennett	Ford (MI)	Mavroules
Bentley	Frank (MA)	Mazzoli
Berman	Frost	McCloskey
Bevill	Gallo	McCurdy
Bilbray	Gaydos	McDade
Blackwell	Gejdenson	McDermott
Boehlert	Gibbons	McGrath
Bonior	Gillmor	McHugh
Borski	Gilman	McMillen (MD)
Boucher	Gonzalez	McNulty
Boxer	Gordon	Mfume
Brewster	Green	Miller (CA)
Brooks	Guarini	Mineta
Browder	Gunderson	Mink
Brown	Hall (OH)	Moakley
Bruce	Hamilton	Molinari
Bryant	Harris	Mollohan
Bustamante	Hayes (IL)	Moody
Cardin	Hefner	Moran
Carper	Henry	Morrison
Carr	Hoagland	Murphy
Chapman	Hochbrueckner	Murtha
Clement	Horn	Nagle
Coleman (TX)	Horton	Natcher
Collins (IL)	Houghton	Neal (MA)
Condit	Hoyer	Neal (NC)
Cooper	Hubbard	Nowak
Costello	Hughes	Oakar
Cox (IL)	Jacobs	Oberstar
Coyne	Jefferson	Obey
Cramer	Johnson (CT)	Olin
Darden	Johnson (SD)	Olver
Davis	Johnston	Ortiz
de la Garza	Jones (GA)	Orton
DeFazio	Jones (NC)	Owens (NY)
DeLauro	Jontz	Owens (UT)
Dellums	Kanjorski	Pallone
Derrick	Kaptur	Panetta
Dicks	Kennedy	Pastor
Dingell	Kennelly	Payne (NJ)
Dixon	Kildee	Pease
Donnelly	Kolter	Pelosi
Dooley	Kopetski	Penny
Dorgan (ND)	Kostmayer	Perkins
Downey	LaFalce	Peterson (FL)
Durbin	Lancaster	Peterson (MN)
Dwyer	Lantos	Petri
Dymally	LaRocco	Pickett

Pickle	Scheuer	Tallon
Poshard	Schiff	Tanner
Price	Schroeder	Thomas (GA)
Pursell	Schumer	Thornton
Rahall	Sharp	Torres
Rangel	Shays	Torricelli
Reed	Sikorski	Traficant
Regula	Sisisky	Unsoeld
Richardson	Skaggs	Upton
Ridge	Skelton	Vento
Rinaldo	Slattery	Visclosky
Ritter	Slaughter	Walsh
Roe	Smith (FL)	Washington
Roemer	Smith (IA)	Waters
Rose	Smith (NJ)	Waxman
Rostenkowski	Solarz	Weldon
Rowland	Solomon	Williams
Roybal	Spratt	Wilson
Russo	Staggers	Wise
Sabo	Stallings	Wolpe
Sanders	Stark	Wyden
Sangmeister	Stokes	Yates
Santorum	Studds	Yatron
Savage	Swett	Young (AK)
Sawyer	Swift	Zimmer
Saxton	Synar	

NOT VOTING—28

Ackerman	Geren	Serrano
Broomfield	Gingrich	Towns
Campbell (CO)	Glickman	Traxler
Clay	Hatcher	Vander Jagt
Collins (MI)	Hertel	Volkmer
Conyers	Kleczka	Weiss
Coughlin	Meyers	Wheat
Dickinson	Mrazek	Whitten
Ford (TN)	Nichols	
Gephardt	Schulze	

□ 1649

Messrs. NAGLE, OWENS of Utah, GALLO, and SAXTON changed their vote from "aye" to "no."

Mr. MCCANDLESS and Mr. LEACH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Chairman, I missed the last vote on the Fawell amendment. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA:
Page 3, line 10, strike "or".
Page 3, insert after line 10 the following:

to the extent that such law does not conflict with any right, requirement, or duty established under this title; or"

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, my amendment makes an important change to clarify that the all important ERISA fiduciary duties and prudent investment requirements will continue to apply to both union jointly trusted plans as well as non-union plans.

The fiduciary provisions go to the heart of ERISA, and we should not leave this Chamber today until we make sure that the exception to ERISA preemption will not allow these crucial protections to be overturned or put into conflict under State laws.

My amendment would preserve the reporting, disclosure, fiduciary, and enforcement standards under Title I of ERISA.

I would also like to point out that any State or local government regulations or involvement in ERISA apprenticeship or training programs is not preempted, if they are otherwise authorized under other Federal legislation. Therefore, it should be understood that so-called school-to-work transition programs, often referred to as "youth apprenticeship programs," would not be affected by ERISA preemption because, in general, such initiatives would not rise to the level of an "employee welfare benefit plan" as that term is defined under ERISA.

Finally, it is important that we recognize that State laws would take precedence over the ERISA fiduciary standards requiring the prudent investment training plans for the exclusive benefit of participants and beneficiaries. I know of no reason, and no reason has been stated, why the States would be given license to overturn ERISA or impose fiduciary duties on such plans which conflict with the ERISA requirements.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I commend the gentlewoman. I personally believe that even if no amendment were adopted, the fiduciary rules would remain viable. But I agree with the gentlewoman that we do not want to give the States the right to undercut ERISA's fiduciary protections, and I believe the gentlewoman's amendment accomplishes that result.

Our side is, therefore, pleased to accept her amendment.

Mr. ORTON. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, I rise in support of the gentlewoman's amendment and in support of H.R. 2782.

Mr. Chairman, many of my colleagues today have characterized this issue as labor versus business. It is not. The question before us today is States rights. This issue is States versus Federal Government.

The Employment Retirement Income Security Act of 1974 [ERISA] established preemption of State laws for only one purpose—to establish one standard set of rules governing retirement pension plans. It is to protect the integrity of retirement plans not to prohibit States from establishing other protective statutes they deem necessary.

Over the past few years, the courts have interpreted this preemption clause in ERISA to extend to State statutes involving apprenticeship programs, prevailing wages, and mechanics liens. I believe this interpretation is contrary to the intent of ERISA.

I find it mildly amusing that 20 years ago during the ERISA debate, Democrats and Republicans found themselves divided over the issue of preemption: Republicans arguing ardently against preemption and Democrats in favor. Today we have switched sides and the debate continues.

My support of H.R. 2782 is not parochial. Passage of this act will have little or no impact on labor or business in Utah. The Utah State Legislature has chosen not to enact prevailing wage laws or apprenticeship programs, but other States have enacted such laws.

The States should have the right to decide for themselves if they need to enact laws to protect their workers. Utah has decided against it, other States have found it necessary to adopt such measures. We in Washington shouldn't make that determination for the States.

I have consistently opposed Federal preemption of State action in all circumstances other than those mandated in the Constitution. I urge you to support States rights and vote in favor of H.R. 2782.

Mr. ATKINS. Mr. Speaker, I rise in support of this legislation, H.R. 2782.

In 1974, Congress amended the Employment Retirement Income Security Act [ERISA]. We did so in order to eliminate the threat of conflicting and inconsistent State and local regulation. The very purpose of the amendments was to protect the pensions of workers.

But in adopting these amendments the drafters utilized broad language preemptive of State law and regulation. Indeed, at the time of their adoption, some concern was expressed that in our attempt to ensure uniform protection of workers' pensions, we might have crafted language which could have the unintentional effect of precluding essential legislation. Accordingly, Congress was authorized a task force to be established under ERISA which was given the specific agenda of reviewing the effects of the 1974 law. Unfortunately, that task force never came to fruition. As a result, we never revisited the effects of the 1974 preemption scheme in an orderly fashion.

And unfortunately, our earlier error followed by our omission has served to undercut worker protection.

Having evaded our oversight responsibilities, the Federal courts, known in the past few years for loudly criticizing judicial activism and raising the flag of behalf of State rights, have struck again and again in a judicially active manner to decimate the ability of the States in traditional areas of State regulation to protect workers.

Massachusetts is one of 31 States which has its own prevailing wage law with respect to employment on projects funded in whole or in part by State government. Unless we amend ERISA through the proposed legislation, however, Massachusetts will not be able to exercise its expressed desire to protect wage standards, equalize competition among bidding contractors, and maintain quality work standards.

Massachusetts has long had a mechanics' lien law which permits workers to secure payment for their work on services. This law has also been declared preempted by the Federal courts—again rendering Massachusetts unable to provide State protective regulation.

Finally, Massachusetts has a comprehensive apprenticeship law which ensures that certain training standards are met on public works projects. Unless we pass this legislation, given the overreaching of the Federal courts in other areas of the country, Massachusetts will be unable to ensure that its public works projects incorporate those standards.

Mr. Chairman, I arise in support of this legislation. Preemption of these areas has only become an issue because we have let the courts misread our intent and permitted the courts to become legislators. We must reclaim that right and responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LANCASTER) having assumed the chair, Mr. ECKART, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, pursuant to House Resolution 536, he reported the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, August 3, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5649, and

H.R. 5475, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PHASEOUT OF THE OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5649.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5649.

The vote was taken by electronic device, and there were—yeas 200, nays 207, answered "present" 2, not voting 25, as follows:

[Roll No. 360]

AYES—200

Abercrombie	Gallo	Miller (WA)
Allen	Gaydos	Mineta
Anderson	Gejdenson	Mink
±Andrews (ME)	Geren	Molinari
Andrews (NJ)	Gibbons	Mollohan
Andrews (TX)	Gilman	Montgomery
Annunzio	Gonzalez	Moody
Applegate	Gordon	Moran
Archer	Goss	Morella
Armey	Green	Murphy
Ballenger	Guarini	Natcher
Barnard	Hall (OH)	Ortiz
Bateman	Hayes (IL)	Owens (NY)
Bellenson	Hochbrueckner	Packard
Berman	Hopkins	Pallone
Bilbray	Horn	Panetta
Bilirakis	Horton	Pastor
Blackwell	Hoyer	Paxon
Bliley	Hubbard	Pease
Boehlert	Hughes	Pelosi
Bonior	Inhofe	Perkins
Borski	Jacobs	Petri
Boxer	James	Pickett
Brewster	Jefferson	Pickle
Brooks	Jenkins	Porter
Brown	Johnson (CT)	Quillen
Bunning	Jones (GA)	Ramstad
Bustamante	Jones (NC)	Rangel
Cardin	Kanjorski	Rhodes
Clement	Kennelly	Ridge
Clinger	Kildee	Riggs
Coble	Klug	Rinaldo
Coleman (TX)	Kolbe	Ritter
Collins (IL)	Kolter	Rogers
Coyne	Kostmayer	Ros-Lehtinen
Cunningham	Lantos	Rostenkowski
DeFazio	Lehman (FL)	Roth
DeLauro	Lent	Roukema
Dellums	Levin (MI)	Roybal
Dicks	Levine (CA)	Russo
Dixon	Lewis (CA)	Sabo
Downey	Lewis (GA)	Sanders
Duncan	Lipinski	Santorum
Dwyer	Lowery (CA)	Savage
Dymally	Lowey (NY)	Sawyer
Early	Machtley	Saxton
Eckart	Manton	Scheuer
Edwards (CA)	Markey	Schumer
Engel	Martinez	Sensenbrenner
Fascell	Matsui	Shaw
Fawell	Mavroules	Shays
Feighan	Mazzoli	Sikorski
Fish	McCandless	Sisisky
Flake	McDermott	Slaughter
Foglietta	McEwen	Smith (FL)
Ford (MI)	McGrath	Smith (NJ)
Frank (MA)	McMillan (NC)	Solarz
Franks (CT)	Mfume	Stark
Frost	Miller (CA)	Stearns
Stokes	Traficant	Weldon
Sundquist	Unsoeld	Wolpe
Swett	Vento	Yates
Swift	Visclosky	Yatron
Taylor (MS)	Vucanovich	Young (AK)
Taylor (NC)	Washington	Zeliff
Thomas (CA)	Waxman	Zimmer
Torres	Weiss	

NOES—207

Alexander	Gradison	Obey
Allard	Grandy	Olin
Anthony	Gunderson	Olver
Aspin	Hall (TX)	Orton
Atkins	Hamilton	Owens (UT)
AuCoin	Hammerschmidt	Oxley
Bacchus	Hancock	Parker
Baker	Hansen	Patterson
Barrett	Harris	Payne (NJ)
Barton	Hastert	Payne (VA)
Bennett	Hayes (LA)	Penny
Bentley	Hefley	Peterson (FL)
Bereuter	Hefner	Peterson (MN)
Bevill	Henry	Poshard
Boehner	Herger	Price
Boucher	Hoagland	Pursell
Browder	Hobson	Rahall
Bruce	Holloway	Ravenel
Bryant	Houghton	Ray
Burton	Huckaby	Reed
Byron	Hunter	Regula
Callahan	Hutto	Richardson
Camp	Hyde	Roberts
Campbell (CA)	Ireland	Roemer
Carper	Johnson (SD)	Rohrabacher
Carr	Johnson (TX)	Rose
Chandler	Johnston	Rowland
Chapman	Jontz	Sangmeister
Coleman (MO)	Kaptur	Sarpalius
Combest	Kasich	Schaefer
Condit	Kennedy	Schiff
Cooper	Kopetski	Schroeder
Costello	Kyl	Sharp
Cox (CA)	LaFalce	Shuster
Cox (IL)	Lancaster	Skaggs
Cramer	LaRocco	Skeen
Crane	Laughlin	Skelton
Dannemeyer	Leach	Slattery
Darden	Lehman (CA)	Smith (IA)
Davis	Lewis (FL)	Smith (OR)
de la Garza	Lightfoot	Smith (TX)
DeLay	Livingston	Snowe
Derrick	Lloyd	Solomon
Dingell	Long	Spence
Donnelly	Luken	Spratt
Dooley	Marlenee	Staggers
Doolittle	Martin	Stallings
Dorgan (ND)	McCloskey	Stenholm
Dornan (CA)	McCollum	Studds
Dreier	McCrery	Stump
Durbin	McCurdy	Synar
Edwards (OK)	McDade	Tallon
Edwards (TX)	McHugh	Tanner
Emerson	McMillen (MD)	Tauzin
English	McNulty	Thomas (GA)
Erdreich	Michel	Thomas (WY)
Espy	Miller (OH)	Torricelli
Evans	Moakley	Upton
Ewing	Moorhead	Valentine
Fazio	Morrison	Walker
Fields	Murtha	Walsh
Gallegly	Myers	Weber
Gekas	Nagle	Williams
Gephardt	Neal (MA)	Wilson
Gilchrest	Neal (NC)	Wise
Gillmor	Nowak	Wolf
Gingrich	Nussle	Wyden
Glickman	Oakar	Wylie
Goodling	Oberstar	Young (FL)

ANSWERED "PRESENT"—2

Lagomarsino	Waters

NOT VOTING—25

Ackerman	Hatcher	Thornton
Broomfield	Hertel	Towns
Campbell (CO)	Kleczka	Traxler
Clay	Meyers	Vander Jagt
Collins (MI)	Mrazek	Volkmer
Conyers	Nichols	Wheat
Coughlin	Roe	Whitten
Dickinson	Schulze	
Ford (TN)	Serrano	

□ 1717

Mrs. SCHROEDER and Messrs. ATKINS, RICHARDSON, FAZIO, RAHALL, HALL of Texas, WILLIAMS, EVANS, NEAL of Massachusetts, OLVER, MOAKLEY, CRANE, and OWENS of Utah changed their vote from "yea" to "nay."

Messrs. BLILEY, HUGHES, BILIRAKIS, HAYES of Illinois, WELDON, PORTER, DICKS, FROST, INHOFE, and JAMES, and Mrs. VUCANOVICH changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LANCASTER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the motion to suspend the rules on which the Chair has postponed further proceedings.

PROVIDING POLICIES WITH RESPECT TO APPROVAL OF BILLS PROVIDING FOR PATENT TERM EXTENSIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5475, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5475, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 278, nays 131, answered "present" 1, not voting 24, as follows:

[Roll No. 361]

YEAS—278

Abercrombie	Bilbray	Clinger
Alexander	Bilirakis	Coble
Allen	Bliley	Coleman (MO)
Anderson	Boehlert	Coleman (TX)
Andrews (NJ)	Boehner	Combest
Andrews (TX)	Bonior	Condit
Annunzio	Boucher	Cooper
Anthony	Brewster	Cox (CA)
Applegate	Brooks	Coyne
Archer	Browder	Cramer
Armey	Brown	Cunningham
Aspin	Bryant	Dannemeyer
AuCoin	Bunning	Davis
Ballenger	Burton	de la Garza
Barnard	Bustamante	DeLauro
Barrett	Callahan	Derrick
Barton	Camp	Dicks
Bateman	Cardin	Dingell
Bennett	Carper	Dixon
Bentley	Carr	Donnelly
Bereuter	Chandler	Dooley
Bevill	Chapman	Doolittle
Dornan (CA)	Johnson (TX)	Petri
Downey	Jones (GA)	Pickett
Dreier	Jones (NC)	Pickle
Duncan	Kanjorski	Porter
Dwyer	Kasich	Price
Dymally	Kildee	Pursell
Early	Klug	Quillen
Eckart	Kolter	Ravenel
Edwards (OK)	Kopetski	Ray
Edwards (TX)	Kostmayer	Regula
Emerson	Kyl	Rhodes
Engel	LaFalce	Richardson
English	Lagomarsino	Ridge
Erdreich	Lancaster	Riggs
Espy	LaRocco	Rinaldo
Ewing	Laughlin	Ritter
Fascell	Lehman (CA)	Roberts
Fazio	Lehman (FL)	Roe
Feighan	Lent	Rogers
Fields	Levin (MI)	Rohrabacher
Fish	Levine (CA)	Rose
Foglietta	Lewis (FL)	Rostenkowski
Ford (MI)	Livingston	Roukema
Frank (MA)	Lowery (CA)	Rowland
Frost	Lowey (NY)	Roybal
Gallegly	Luken	Russo
Gallo	Machtley	Santorum
Gaydos	Manton	Sarpalius
Gephardt	Martin	Sawyer
Geren	Matsui	Schaefer
Gibbons	McCollum	Schiff
Gilchrest	McCurdy	Sensenbrenner
Gillmor	McDade	Shuster
Gilman	McEwen	Skaggs
Gingrich	McGrath	Skeen
Glickman	McHugh	Skelton
Gonzalez	McMillan (NC)	Slattery
Goodling	McMillen (MD)	Smith (IA)
Gordon	McNulty	Smith (NJ)
Gradison	Moakley	Smith (TX)
Grandy	Molinari	Solarz
Guarini	Mollohan	Solomon
Gunderson	Montgomery	Spence
Hall (OH)	Moorhead	Spratt
Hall (TX)	Moran	Staggers
Hammerschmidt	Morella	Stearns
Hancock	Morrison	Stump
Hansen	Murphy	Sundquist
Harris	Murtha	Tallon
Hayes (LA)	Nagle	Tanner
Hefner	Natcher	Tauzin
Henry	Neal (MA)	Taylor (MS)
Herger	Neal (NC)	Taylor (NC)
Hoagland	Nowak	Thomas (CA)
Hobson	Nussle	Thomas (GA)
Hochbrueckner	Oberstar	Thomas (WY)
Holloway	Obey	Thornton
Hopkins	Olver	Traficant
Horn	Ortiz	Upton
Horton	Oxley	Valentine
Houghton	Packard	Vucanovich
Hoyer	Pallone	Walker
Hubbard	Parker	Walsh
Hughes	Pastor	Weldon
Hunter	Patterson	Wilson
Hutto	Paxon	Wolf
Hyde	Payne (NJ)	Wolpe
Inhofe	Payne (VA)	Wylie
Ireland	Pease	Yatron
James	Perkins	Young (AK)
Jenkins	Peterson (FL)	

NAYS—131

Allard	Durbin	Kennedy
Andrews (ME)	Edwards (CA)	Kennelly
Atkins	Evans	Kolbe
Bacchus	Fawell	Lantos
Baker	Flake	Leach
Beilenson	Franks (CT)	Lewis (CA)
Berman	Gejdenson	Lewis (GA)
Blackwell	Gekas	Lightfoot
Borski	Goss	Lipinski
Boxer	Green	Lloyd
Bruce	Hamilton	Long
Byron	Hastert	Markey
Clement	Hayes (IL)	Marlenee
Collins (IL)	Hefley	Martinez
Costello	Huckaby	Mavroules
Cox (IL)	Jacobs	Mazzoli
Crane	Jefferson	McCandless
Darden	Johnson (CT)	McCloskey
DeFazio	Johnson (SD)	McCrery
DeLay	Johnston	McDermott
Dellums	Jontz	Mfume
Dorgan (ND)	Kaptur	Michel
Miller (CA)	Ros-Lehtinen	Stokes
Miller (OH)	Sabo	Studds
Miller (WA)	Sanders	Swett
Mineta	Sangmeister	Swift
Mink	Savage	Synar
Moody	Saxton	Torres
Myers	Scheuer	Unsoeld
Oakar	Schroeder	Vento
Olin	Schumer	Visclosky
Orton	Serrano	Washington
Owens (NY)	Sharp	Waters
Owens (UT)	Shaw	Waxman
Panetta	Shays	Weber
Pelosi	Sikorski	Weiss
Penny	Sisisky	Williams
Peterson (MN)	Slaughter	Wise
Poshard	Smith (FL)	Wyden
Rahall	Smith (OR)	Yates
Ramstad	Snowe	Young (FL)
Rangel	Stallings	Zeliff
Reed	Stark	Zimmer
Roemer	Stenholm	

ANSWERED "PRESENT"—1

Campbell (CA)

NOT VOTING—24

Ackerman	Ford (TN)	Schulze
Broomfield	Hatcher	Torricelli
Campbell (CO)	Hertel	Towns
Clay	Kleczka	Traxler
Collins (MI)	Meyers	Vander Jagt
Conyers	Mrazek	Volkmer
Coughlin	Nichols	Wheat
Dickinson	Roth	Whitten

□ 1727

Mr. MINETA and Mr. FLAKE changed their vote from "yea" to "nay."

Mr. HANSEN and Mr. GORDON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, August 5, 1992.

VETERANS' COMPENSATION RATE AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4244) to amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, as amended.

The Clerk read as follows:

H.R. 4244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 1992".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) 3.2 PERCENT INCREASE.—Section 1114 is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$86";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$248";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$353";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$503";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$634";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$801";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$926";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,042";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,734";

(11) by striking out "$2,089" and "$2,927" in subsection (k) and inserting in lieu thereof "$2,156" and "$3,021", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,156";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,376";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,703";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,021";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,297" and "$1,932", respectively; and

(17) by striking out "$1,879" in subsection(s) and inserting in lieu thereof "$1,939".

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$100" in clause (A) and inserting in lieu thereof "$103";

(2) by striking out $169" and "$52" in clause (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in clause (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in clause (D) and inserting in lieu thereof "$83";

(5) by striking out "$185" in clause (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in clause (F) and inserting in lieu thereof "$160".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$452" and inserting in lieu thereof "$466".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$636	W-4	$912
E-2	655	O-1	805
E-3	673	O-2	831
E-4	715	O-3	890
E-5	734	O-4	941
E-6	750	O-5	1,037
E-7	786	O-6	1,170
E-8	831	O-7	1,264
E-9	[1] 868	O-8	1,386
W-1	805	O-9	1,486
W-2	837	O-10	[2] 1,631
W-3	862		

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $936.

[2] "If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,747.";

(2) by striking out "$71" in subsection (b) and inserting in lieu thereof "$73";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(4) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$310" in clause (1) and inserting in lieu thereof "$320";

(2) by striking out "$447" in clause (2) and inserting in lieu thereof "$461";

(3) by striking out "$578" in clause (3) and inserting in lieu thereof "$596"; and

(4) by striking out "$578" and "$114" in clause (4) and inserting in lieu thereof "$596" and "$118", respectively.

(b) SUPPLEMENTAL DIC for DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$320"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 7. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this Act shall take effect on December 1, 1992.

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4244, the bill now under consideration, and on the four other bills that will follow this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1730

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

As my colleagues may know, compensation payments to veterans with service-connected disabilities, and dependency and indemnity compensation [DIC] for widows and children of veterans who die of service related disabilities are not subject to increase through automatic indexing. Therefore, each year our committee must review these programs and report to the House a bill to provide specific cost-of-living adjustments in the compensation and DIC rates.

H.R. 4244 was introduced by the chairman of our Subcommittee on Compensation, Pension and Insurance, the gentleman from Ohio [Mr. APPLEGATE].

Before yielding to the gentleman for an explanation of the bill, I want to thank him for his leadership on this bill and the next veterans bill we will consider, which is H.R. 3236, and to thank the gentleman from Arizona [Mr. STUMP] for his cooperation in bringing this bill and others to the floor.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, before I begin my explanation of this bill I would first like to thank the distinguished chairman, SONNY MONTGOMERY, for bringing these bills to the floor in such a timely fashion and for his excellent leadership of the committee. I also want to thank my good friend and ranking minority member, BOB STUMP, for the fine bipartisan support and assistance he and his staff provided in bringing this legislation to the House.

H.R. 4244, as reported by our committee, would provide a 3.2-percent cost-of-living adjustment [COLA] in the rates of compensation for veterans suffering from service-connected disabilities and in the existing rates of dependency and indemnity compensation [DIC] paid to survivors of veterans whose deaths are service connected. The new rates would become effective on December 1 of this year.

Although we will not know the actual change in the Consumer Price Index until October, we will do whatever is needed to adjust that percentage to insure that the COLA we enact fully offsets the eroding effects of inflation. I might add, as a final note, that, since this COLA is already included in the Congressional Budget Office baseline, the pay-as-you-go effects of its enactment are zero. There follows a more detailed explanation of the bill as reported:

DISCUSSION OF THE REPORTED BILL

Sections 2 through 7 of H.R. 4244 would provide, effective December 1, 1992, a 3.2 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

Should the proposed 3.2 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1992 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DEC. 1, 1992

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$83	$86
(b) 20 percent	157	162
(c) 30 percent	240	248
(d) 40 percent	342	353
(e) 50 percent	487	503
(f) 60 percent	614	634
(g) 70 percent	776	801
(h) 80 percent	897	926
(i) 90 percent	1,010	1,042
(j) 100 percent	1,680	1,734
Higher statutory awards for certain multiple disabilities:		
(k)(1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	68	68
(k)(2) Limit for veterans receiving payments under (a) to (j) above	2,089	2,156
(k)(3) Limit for veterans receiving benefits under (l) to (n) below	2,927	3,021
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	2,089	2,156
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	2,302	2,376
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,619	2,703
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,927	3,021
(p)(1) If disabilities exceed requirements of any rates prescribed, Secretary of Veterans Affairs may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,927	3,021
(p)(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,927	3,021
(p)(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed	2,927	3,021
(p)(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,927	3,021
(q)[This subsection repealed by Public Law 90–493.]		
(r)(1) If veteran entitled to compensation under (o) or to the maximum rate under (p), or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,257	1,297
(r)(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,872	1,932
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,879	1,939
(t)[This subsection repealed by Public Law 99–576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 pecent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veterans is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$100	$103
Has a spouse and child	169	174
Has no spouse, 1 child	69	71
For each additional child	52	54
For each dependent parent	80	83
For each child age 18–22 attending school	155	160
Has a spouse in nursing home or severely disabled	185	191

Pay grade	Increase (monthly rate)	
	From	To
E–1	$616	$636
E–2	635	655
E–3	652	673
E–4	693	715
E–5	711	734
E–6	727	750
E–7	762	786
E–8	805	831
E–9	[1] 841	[1] 868
W–1	780	805
W–2	811	837
W–3	835	862
W–4	884	912
O–1	780	805
O–2	805	831
O–3	862	890
O–4	912	941
O–5	1,005	1,037
O–6	1,134	1,170
O–7	1,225	1,264
O–8	1,343	1,386
O–9	1,440	1,486
O–10	[2] 1,580	[2] 1,631

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Cheif Petty Office of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $936.

[2] If the vetean served as Chairman or Vice-Chairman of the Joint Cheifs of Staff, Chief of the Army, Chief of Naval Operations, Cheif of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spous's rate shall be $1,747.

When there is no suriving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the decreased veteran. These rates are increasd as follows

	Increase (monthly rate)	
	From	To
One child	$310	$320
Two children	447	461
Three children	578	596
Each additional child	114	118

I urge my colleagues to pass this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4244, the Veterans' Compensation Rate Amendments of 1992.

I want to take this opportunity to thank DOUG APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, and the gentleman from Mississippi, Chairman SONNY MONTGOMERY, for their leadership in promptly moving this bill through the committee.

As our colleague, DOUG APPLEGATE, has stated, this bill provides for a 3.2-percent increase rate to service-connected disabled veterans, their dependents and survivors.

I recommend that my colleagues support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Subcommittee on Hospitals and Health Care of the Committee on Veterans Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 4244.

Mr. Speaker, I, too, want to lend my support to H.R. 4244, the veterans' compensation rates amendments, to provide a 3.2-percent cost-of-living increase in the rates of veteran's compensation and dependency and indemnity compensation [DIC].

I wish to reiterate a point made by Chairman MONTGOMERY, that compensation rates for our Nation's veterans and DIC rates for their dependents are not subject to automatic indexing and must be considered by the House in separate legislation each year.

As many of my colleagues will recall, last Congress, over 2 million disabled veterans were temporarily denied a COLA when the Senate failed to act on relevant legislation due to the addition of controversial agent orange provisions. Fortunately, a clean COLA bill was eventually passed.

Nevertheless, this action underscored the importance of ensuring that our veterans do not suffer unjustly because their COLA bill is used as a vehicle to bring other legislation before the full House for a vote.

I urge my colleagues to support H.R. 4244.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to rise in support of H.R. 4244, the Veterans' Compensation Rate Amendments of 1992.

I want to thank the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of our Committee on Veterans' Affairs, and the distinguished ranking minority member, the gentleman from Arizona [Mr. STUMP], as well as the subcommittee chairman, the gentleman from Ohio [Mr. APPLEGATE] for bringing the bill before us and for his commitment to the health and welfare of all our veterans.

H.R. 4244 authorizes a 3.2-percent cost-of-living adjustment increase in both service-connected disabled veterans monthly compensation rate and the dependency and indemnity compensation benefits to survivors of such veterans, all of which will become effective December 1, 1992.

While the administration would oppose a bill raising the COLA's over the Consumer Price Index, the CBO has re-

cently predicted that the CPI increase will be about 3.2 percent, the same as the COLA increase proposed in the measure now before us.

Accordingly, Mr. Speaker, I urge my colleagues to fully support this important measure. It is the very least we can do for our disabled veterans.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentlewoman from South Carolina [Mrs. PATTERSON], a member of the committee.

Mrs. PATTERSON. Mr. Speaker, I rise today in support of H.R. 4244, legislation to provide a 3.2-percent cost-of-living adjustment [COLA] for service-connected disabled veterans, their dependents and survivors. The legislation before us today illustrates our continuing commitment to America's disabled veterans and their families.

I want to commend the chairman of the Veterans' Affairs Committee, G. V. (SONNY) MONTGOMERY, and the ranking member, BOB STUMP, for their leadership and fundamental commitment to our Nation's veterans. Mr. Speaker, it is imperative that the sacrifices of our veterans never be forgotten. I know that the veterans disabled by virtue of their service to our country, and their survivors, deserve no less. I ask my colleagues to join me in supporting this legislation.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentlewoman from South Carolina for what she said as a member serving on our committee.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR], who has worked with our veterans and has been very supportive of veterans. Her family is made up of a number of veterans back in Ohio.

Ms. OAKAR. Mr. Speaker, first of all I want to compliment the gentleman from Mississippi for his leadership and the minority leader on the other side and my friend and colleague, the gentleman from Ohio [Mr. APPLEGATE] for this very important compensation benefit.

Very often when we talk about cost of living adjustments, we certainly always target Social Security recipients, but we sometimes leave out veterans' cost-of-living adjustments, Federal retirees, railroad retirees and others.

This is especially important, because it relates to those veterans who were disabled and must be compensated and their survivors, the spouses, who deserve this cost-of-living adjustment.

Mr. Speaker, I really want to compliment the gentleman from Mississippi, because once again, as we know, very often when people talk about disability, they are talking about Social Security disability, but they leave out veterans. That is why the gentleman is assuring us that they will not be left out with respect to this cost-of-living adjustment, not only for the veterans, but their survivors. I think it is real critical.

We had a study of our Select Committee on Aging, Mr. Speaker, and we found that poverty among our older Americans is not decreasing. It is actually increasing with respect to certain groups, and more and more of our older Americans become near poor and they do not qualify for lots of things that I suppose they should. That is why if you just give them what is due to them and their spouses, we will prevent this kind of poverty.

So this is why I think this is so important. It is the least we should be doing, and I want to compliment all of you involved. This is a very, very important bill and I hope people realize its importance, because we are really going to help many, many of these deserving Americans from perhaps poverty and poverty levels, and that is not the way we want to treat our veterans nor their spouses.

□ 1740

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have blue sheets at the desk here on the 5 bills that we will present here today. We would hope that Members would come by to the desk because these sheets totally explain these bills that we hope will be passed.

Mr. Speaker, again I want to thank the gentleman from Ohio [Mr. APPLEGATE], for the quick movement of this legislation, along with the gentleman from Arizona [Mr. STUMP].

As Mr. APPLEGATE said, it is a clean COLA bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4244, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2322) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate bill?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 895). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike out all after the enacting clause of the Senate bill (S. 2322) and insert in lieu thereof the provisions of H.R. 4244, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4244) was laid on the table.

VETERANS RADIATION EXPOSURE AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the

bill (H.R. 3236) to improve treatment for veterans exposed to radiation while in military service, as amended.

The Clerk read as follows:

H.R. 3236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Radiation Exposure Amendments of 1992".

SEC. 2. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR CERTAIN RADIATION-EXPOSED VETERANS AND ELIMINATION OF LATENCY-PERIOD LIMITATIONS.

(a) IN GENERAL.—Section 1112(c) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "to a degree" and all that follows through "subsection)";

(2) in paragraph (2), by adding at the end the following new subparagraphs;

"(N) Cancer of the salivary gland.

"(O) Cancer of the urinary tract.";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992.

SEC. 3. INDENTIFICATION OF CERTAIN ACTIVITIES RELATING TO EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note) is amended by adding at the end the following new section:

"IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970

"SEC. 10. (a) IN GENERAL.—(1) In order to determine whether activities (other than the tests or occupation activities referred to in section 5(a)(1)(B)) resulted in the exposure of veterans to ionizing radiation without the benefit of monitoring systems during the service of such veterans that occurred before January 1, 1970, the Advisory Committee established under section 6 shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service;

"(B) identify any activity during which significant numbers of veterans received exposure without the benefit of monitoring; and

"(C) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

"(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(B) not later than April 1, 1993.

"(b) INVESTIGATION PLAN AND REPORT.—(1) Upon receipt of the report referred to in subparagraph (B) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than August 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification;

"(B) a copy of the report of the Advisory Committee referred to in subsection (a)(1)(B); and

"(C) the plan referred to in paragraph (1)(B).".

SEC. 4. REVIEW OF BRONCHIO-ALVEOLAR CARCINOMA.

(a) ADVISORY COMMITTEE REVIEW—The Secretary of Veterans Affairs shall direct the Advisory Committee on Environmental Hazards to review pertinent scientific data relating to bronchio-alveolar carcinoma to determine whether such disease entity should be considered to be radiogenic. Based on its review, the Advisory Committee shall report its findings to the Secretary.

(b) Decision by Secretary.—The Secretary, based on the Advisory Committee's findings, shall, not later than April 1, 1993, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's decision as to whether such disease entity should be presumed to be service connected if suffered by a radiation-exposed veteran (as defined by section 1112(c)(4)(A) of title 38, United States Code).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, before yielding to my colleague, the Hon. LANE EVANS, the chief sponsor of the bill, I want to acknowledge his work on behalf of veterans who have disabilities that may have resulted from active-duty service during the period that I have mentioned. LANE has been one of the leading spokesmen in the Congress on the issue of radiation and its impact on those who served in the military.

I also want to thank the gentleman from New Jersey, Mr. CHRIS SMITH, who worked with Mr. EVANS, and also the gentleman from Ohio [Mr. APPLEGATE], who reported this bill out of his subcommittee, and I also acknowledge the gentleman from Georgia [Mr. ROWLAND], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who were chiefly responsible for Public Law 100–321, passed by the Congress and signed by the President on May 5, 1988, the Radiation-Exposed Veterans Compensation Act of 1988.

Mr. Speaker, these members, and others on the committee, deserve much credit for the time and attention they have given to this important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS of Illinois. I thank the committee chairman for yielding time to me and for his support of H.R. 3236, the Veterans' Radiation Amendments of 1992.

This bill is the companion of S. 775, which passed the Senate last fall. It has the bipartisan support of 77 of our colleagues and the strong endorsement of the major veteran service organizations. And the provisions of the bill reflect the latest scientific evidence, including the National Academy of Sciences' BEIR 5 Report.

This legislation would make several important changes to existing law so that veterans exposed to ionizing radiation during service are treated more fairly.

First, current law specifies that a disease must manifest within 40 years of exposure to radiation in order to be presumed related to the exposure. H.R. 3236 would eliminate the latency period between exposure to radiation and manifestation of disease in order for the disease to be considered a service-connected disability. The elimination of latency periods is strongly supported by recent research as well as the VA.

Second, the bill would add cancers of the salivary gland and urinary tract to the list of 13 presumptive conditions. Again, such action reflects the most recent scientific evidence and is based, in part, on long-term studies of Japanese survivors of the atomic explosions at Hiroshima and Nagasaki in World War II.

Third, many of the activities that may have exposed servicemembers to radiation are not covered by existing law. This means that a veteran exposed to ionizing radiation while disposing of radioactive wastes aboard U.S. Navy ships could not receive the same benefits as a veteran exposed during the occupation of Nagasaki. The bill attempts to rectify this problem by directing the Secretary to examine the latest scientific evidence to determine which activities may have exposed servicepersons to ionizing radiation prior to 1970.

Specifically, the VA's Advisory Committee on Environmental Hazards will be required to review the information concerning exposure to radiation and to identify those activities that might have exposed servicepersons to ionizing radiation without the benefit of monitoring. The advisory board will submit its conclusions to the Secretary by April 1, 1993. Subsequently, the Secretary will submit his report to Congress by August 1, 1993, detailing those activities to be more fully investigated, a plan to conduct such investigations, and a copy of the advisory committee's report.

Fourth, the bill requires VA's Advisory Committee on Environmental

Hazards to examine the relationship between a rare form of lung cancer and exposure to ionizing radiation. This provision represents an amendment offered by Mr. SMITH. Accordingly, I would like to again thank CHRIS for his efforts on behalf of radiation-exposed veterans.

This bill recognizes America's responsibility to atomic veterans and seeks to end their uphill battle for medical care and compensation by offering assistance to these veterans in their time of need.

For these reasons, I strongly urge you to support passage of H.R. 3236 as amended, the Veterans' Radiation Amendments of 1992.

Mr. STUMP. Mr. Speaker, I ask unanimous consent that I be permitted to revise my remarks on this bill and the three subsequent bills that will be presented here.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3236, as amended.

I want to applaud the gentleman from Illinois, Mr. LANE EVANS, the gentleman from New Jersey, Mr. CHRIS SMITH, and the gentleman from Ohio, Mr. DOUG APPLEGATE for their contributions to the formulation of this bipartisan bill, and would like to express my support for its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 3236, as amended.

Mr. Speaker, I urge my colleagues to support H.R. 3236, as amended, the veterans' radiation exposure amendments.

This bill expands the current list of 13 cancer-related diseases eligible for compensation under Public Law 100–321, the Radiation-Exposed Veterans Compensation Act of 1988, to include cancer of the salivary gland and cancer of the urinary tract. Additionally, H.R. 3236 removes the current requirement that any of these diseases suffered by radiation-exposed veterans be manifested within 40 years after exposure.

It is only fair that our Nation's veterans who were exposed to various levels of ionizing radiation during World War II, as well as during subsequent nuclear testing, be justly compensated for their suffering.

I urge my colleagues to support H.R. 3236.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey, Mr. CHRIS SMITH, the ranking member on the subcommittee.

Mr. SMITH of New Jersey. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in very strong support of this legislation, the Veterans' Radiation Exposure Amendments of 1992,

Mr. Speaker, I would like to take a moment to commend the fine work of my colleague, the gentleman from Illinois, LANE EVANS, for his leadership in crafting this important legislation, and also the contributions made to this measure by the gentleman from Ohio [Mr. APPLEGATE] the chairman of the subcommittee, and my good friend, the ranking member of the subcommittee and the full committee, the gentleman from Arizona [Mr. STUMP].

□ 1750

I want to especially, too, thank the gentleman from Arizona for offering on my behalf during the markup in the subcommittee the amendment that reflected a compromise on my bill, H.R. 4458, which would have added bronchiolo-alveolar carcinoma to the list of illnesses presumed to be service-connected for veteran compensation purposes. I regret that the subcommittee did not report the bill intact. I am very grateful to the gentleman from Arizona [Mr. STUMP] and the gentleman from Ohio [Mr. APPLEGATE] for their cooperation in crafting this compromise legislation.

Mr. Speaker, section 4 of H.R. 3236 calls on the Secretary of Veterans Affairs to direct the Advisory Committee on Environmental Hazards to review the scientific data on bronchiolo-alveolar carcinoma to determine whether it is needed radiogenic. Furthermore, the amendment calls on the Secretary to report to Congress the findings of the advisory committee and report his decision on whether it should be presumed service connected.

This health issue, Mr. Speaker, was brought to my attention by Joan McCarthy of Monmouth County, the courageous and very persistent widow of Tom McCarthy who died from bronchiolo-alveolar carcinoma, a very rare form of nonsmoker's lung disease. Tom McCarthy, for the record, participated in the atomic test, Operation Wigwam, and I have worked with Joan for years, and the she tried unsuccessfully to receive compensation when he was alive, and after, through the Veterans Affairs veterans appeals process.

Mr. Speaker, passage of today's bill represents, I would suggest, a major step toward compensation for those who suffer and for those who have already died from this debilitating and deadly disease.

I thank my colleagues and the gentleman from Mississippi [Mr. MONTGOMERY] especially, in closing, for his work on the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], a member of our committee and the chairman of the subcommittee that reported this legislation out.

Mr. APPLEGATE. Mr. Speaker, once again I thank the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the full committee, and again this is legislation that did move through my Subcommittee on Compensation and Pensions, and, as the distinguished author of H.R. 3236, the gentleman from Illinois [Mr. EVANS], my good friend who is also vice chairman of the committee, has indicated, this bill provides further improvements in benefits for veterans who were exposed to ionizing radiation during military service. This is excellent legislation, and I want to highly commend the gentleman from Illinois [Mr. EVANS] for his continued leadership in this area. LANE EVANS is someone who is a very persistent young man, and persistence, I always say, eventually pays off, but in his dogged determination to see to this, why he was after me constantly, and so those people who will ultimately be compensated because of this are going to be forever grateful for this dogged determination.

I also want to express my appreciation again to the gentleman from Arizona [Mr. STUMP], my good friend who is always there when we need him in his bipartisan way, and I appreciate his leadership, and I also want to acknowledge the good work of the gentleman from New Jersey [Mr. SMITH]. He, too, was one that came before the subcommittee and brought a constituent in who talked about a problem, and we did address that, and we were able to incorporate that through the support of the gentleman from Illinois [Mr. EVANS] to see that that was made a part of it.

Mr. Speaker, I can assure each of my colleagues that our subcommittee is going to continue to monitor this subject of the adverse health risks associated with exposure to ionizing radiation and that we are going to do whatever is necessary to ensure that those who suffer from disabilities associated with their military service are going to continue to be properly compensated, and I would urge my colleagues to give strong support to this measure.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3236, the veterans' radiation exposure amendments, and I wish to thank the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the House Committee on Veterans' Affairs, and the committee's ranking minority member, the gentleman from Arizona [Mr. STUMP], and the gentleman from Illinois [Mr. EVANS] for introducing this legislation and for his unceasing efforts on behalf of our veterans suffering from disabilities. I also commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from New Jersey [Mr. SMITH], and the subcommittee chairman, the gentleman from Ohio [Mr. APPLEGATE], for their work on this measure.

The measure would amend the Radiation-Exposed Veterans Compensation Act of 1988, which provides long-overdue compensation to veterans exposed to radiation while in military service, to expand the list of diseases deemed to have been caused by exposure to radiation. In addition, the 40-year timeframe in which listed diseases must manifest themselves would be approximately dropped under this bill.

Finally, this bill would direct the Advisory Committee on Environmental Hazard to undertake a study to determine whether military activities before 1970 which were not monitored for radiation exposure would warrant additional investigation.

Mr. Speaker, I commend the Veteran's Affairs Committee for its attention to the problem of Veterans' diseases resulting from exposure to radiation. Accordingly, I urge my colleagues to unanimously support this measure.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congressional Budget Office has estimated that this bill will have a direct spending impact of $2 million in fiscal year 1993. I share the concern of my colleagues who are reluctant to vote for bills that have direct spending impact without offsetting savings.

Now, Mr. Speaker, wherever the gentleman from California [Mr. PANETTA] or the gentleman from Ohio [Mr. GRADISON] are tonight, perhaps in the Committee on the Budget, I want to assure them and my colleagues that we will remedy the small, minor cost impact of this bill with enactment of H.R. 5006, which is a bill I hope we will bring up next week. The bill contains substantial cost savings provisions. The savings contained in that bill will offset the cost of this bill and other bills that we will bring up tonight and before the August recess.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I would like to take a minute, too, if I could, to say that we shower our Members here with a lot of compliments and all, but I would also like to extend a compliment to the gentleman from New York [Mr. GILMAN] who is always there. He is not a member of the committee, but every veterans' bill, piece of legislation, that comes up on the floor of the House, BEN GILMAN is there. He is up there to support the veterans of this country, and I do not know anybody that has any more compassion for the veterans of this country, and I think that they do indeed owe him a great debt of gratitude, and we always, always look forward to his support and need it.

Mr. MONTGOMERY. Mr. Speaker, I appreciate what the gentleman from Ohio [Mr. APPLEGATE] said, and say "Ditto." The gentleman from New York [Mr. GILMAN] is a warm, kind, wonderful person, and we are proud he is in the Congress working on these veterans' bills.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3236, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPANDED VA/DOD HEALTH CARE SHARING

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5193) to improve the delivery of health care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs.

The Clerk read as follows:

H.R. 5193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXPANSION OF AUTHORITY FOR HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE.

(A) SHARING AGREEMENTS.—The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code, during the period before October 1, 1996. Under such an agreement—

(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

(2) the term "primary beneficiary" shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

(b) REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.—A proposed agreement authorized by subsection (a)(1) that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Chief Medical Director finds, and certifies to the Secretary, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at the facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

(c) EXPANDED SHARING AGREEMENTS WITH DOD. Under an agreement under subsection (a), guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

(d) EXPIRATION.—The authority to provide services pursuant to agreements entered into under subsection (a) expires on October 1, 1996.

(e) CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.—In carrying out this section, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

(f) ANNUAL REPORT.—(1) For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(2) In the report under paragraph (1) for fiscal year 1996, the Secretaries shall include the following:

(A) An assessment of the effect of agreements entered into under subsection (a) on the delivery of health care to eligible veterans.

(B) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the armed forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(C) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

With the enactment of Public Law 97–174 in 1982, Congress cemented a relationship between VA and military medicine which has seen healthy growth for over a decade. That act permits the directors of VA and DOD health care facilities to negotiate agreements under which the parties may, subject to reimbursement under a flexible formula, share health care resources.

Congress limited the scope of this largely untested concept through a provision stating that direct patient care could only be provided to primary beneficiaries of the sharing partner. Thus, VA hospitals could only provide direct care services to active duty members and retirees, but not to CHAMPUS-eligible dependents, and DOD facilities could not be used to provide direct care to CHAMPVA-eligible beneficiaries.

H.R. 5193 authorizes VA and DOD to expand medical services provided through these cost-sharing agreements.

Today, 150 VA hospitals have sharing agreements with DOD facilities. Under these agreements, more than 3,000 services are shared. These agreements are very cost effective. Millions of dollars are saved by VA and DOD each year.

H.R. 5193 would permit VA to provide services on a space-available basis to any CHAMPUS beneficiary. VA could not provide that care, however, unless the VA's Chief Medical Director finds that the agreement would improve services to veterans at that facility. In addition, the Director would have to show that the agreement would not limit access to care for veterans.

I want to emphasize that H.R. 5193 requires the VA to consult with the veterans service organizations in carrying on this expansion of sharing authorities.

Since the enactment of this limited provision of law in 1982, it has proven to be very beneficial to both departments, and we believe it is time to remove the limitation placed on the departments almost 10 years ago.

Mr. Speaker, I reserve the balance of my time.

□ 1800

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5193, a bill which expands, on a time-limited basis, existing VA/DOD health care sharing agreements.

This legislation has received broad support from the veterans' service organizations. One of the primary reasons is that it clearly maintains veterans' priority for care at VA facilities. H.R. 5193 also effectively encourages sharing of resources at a time when VA faces serious fiscal constraints. In these times of budget austerity, VA needs to look to new and innovative ways to provide cost-effective service to its veterans beneficiary population.

I join Chairman MONTGOMERY in thanking the chairman and ranking minority member of the House Armed Services Committee for their assistance with this legislation.

I urge my colleagues to support H.R. 5193.

Mr. Speaker, as our chairman mentioned, this is one of the better things we have done. Chairman MONTGOMERY deserves the lion's share of credit for this bill because it has been his idea and he has worked diligently toward bringing it to its achievement.

I urge my colleagues to support H.R. 5193.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in strong support of H.R. 5193, a bill to expand current health care sharing agreements between the Department of Veterans Affairs [VA] and the Department of Defense [DOD].

This legislation authorizes the Secretary of Veterans Affairs to provide services on a space-available basis to any CHAMPUS beneficiary under VA/DOD sharing agreements, and permits the VA to provide such services in areas where there is no DOD health care facility or where such a facility will be closing. In addition, DOD would be authorized to provide health care services to CHAMPVA beneficiaries under sharing agreements.

It is important to point out that while a certain amount of concern still exists regarding the treatment of dependents, the majority of the veterans' services organizations support H.R. 5193. Furthermore, this bill is carefully crafted and contains explicit provisions to ensure that veterans remain the highest priority for care by the VA. In no way would VA facilities be permitted to deny or delay veteran's access to health care.

This legislation benefits both the VA and DOD and is very timely in light of several factors. The numerous base closings in these times of force reduction are leaving military retirees and their dependents without direct access to health care facilities. Second, a 10-year trend of underfunding of the VA health care system has taken a devastating toll and placed its future in peril.

The status quo is no longer a feasible option. Unless the Congress explores other means of generating funds for the VA health care system, we will be responsible for contributing to its demise.

It is thus imperative that current VA/DOD health care sharing agreements be expanded systemwide in order to preserve and improve the ability of the VA to care for its veteran population. Additionally, this proposal will allow the VA to expand on its services to women, a much needed improvement, which cannot be accomplished in the current budget scenario.

H.R. 5193 enhances an already successful relationship between VA and DOD health care facilities. I appreciate the leadership and support of Chairman MONTGOMERY and ranking member STUMP. I strongly urge my colleagues to support this bill.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5193, a bill which will expand Veterans Affairs and Department of Defense health care sharing agreements in order to improve veterans' health care. I wish to thank the distinguished chairman of the committee, Mr. MONTGOMERY, its distinguished ranking minority member, Mr. STUMP and the ranking member of the Veterans Health Subcommittee, the gentleman from Arkansas, [Mr. HAMMERSCHMIDT] for bringing this legislation before us.

Mr. Speaker, the Department of Veterans Affairs and Department of Defense health sharing law of 1982 permit military retirees to obtain treatment at DOD health facilities and active duty members to obtain treatment in VA facilities. Through cost sharing and resource pooling, veterans have access to the full array of health care services which may not be offered by their local VA health center. H.R. 5193 will enhance the benefits of CHAMPUS and CHAMPVA recipients by permitting them to participate in the DOD/VA share agreements.

This bill protects veterans' interests by requiring the Secretary of Veterans Affairs to consult with veterans' service organizations before implementing the CHAMPUS/CHAMPVA sharing provisions. In addition, it requires the chief medical director to certify that the CHAMPUS/CHAMPVA cost sharing agreement benefits veterans.

Therefore, Mr. Speaker, I urge my colleagues to support this measure as it seeks to improve health care during these times of deficits and budget cuts and I commend the House Veterans' Affair Committee for their consistent & Dedicated Support of our Nations veterans.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to thank the ranking minority member of the subcommittee, the gentleman from Arkansas, [Mr. HAMMERSCHMIDT], and the gentleman from Arizona, the ranking minority member of the full committee, for their work and leadership on the bill.

Since this bill was jointly referred to the Armed Services Committee, I also want to thank the chairman of the committee, the gentleman from Wis-

consin [Mr. ASPIN] and the ranking minority member of the committee, the gentleman from Alabama, [Mr. DICKINSON], for their cooperation in expediting this measure, and to thank Mrs. BYRON of Maryland, chairman of the Personnel Subcommittee and Mr. BATEMAN, the ranking minority member of the subcommittee, who also handled the bill.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THOMAS T. CONNALLY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5491) to designate the Department of Veterans Affairs medical center in Marlin, TX, as the "Thomas T. Connally Department of Veterans Affairs Medical Center."

The Clerk read as follows:

H.R. 5491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs medical center in Marlin, Texas, is designated as the "Thomas T. Connally Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the medical center referred to in section 1 is deemed to be a reference to the "Thomas T. Connally Department of Veterans Affairs Medical Center".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was introduced by the gentleman from Texas [Mr. EDWARDS]. The gentleman is one of the new members of our committee. He has done an outstanding job. He took the place of Marvin Leath of Texas, also a great American, serving on the Committee on Veterans' Affairs.

The gentleman from Texas [Mr. EDWARDS] got his training under the late Tiger Teague of Texas, and we are glad to have the gentleman from Texas [Mr. EDWARDS] explain this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 5491, which would rename the VA medical center in Marlin, TX, after former Senator Tom Connally of Texas.

I want to express my special appreciation to the distinguished gentleman from Mississippi [Mr. MONTGOMERY] and to the distinguished gentleman from Arizona [Mr. STUMP], the ranking minority member of the Committee on Veterans' Affairs, for their special efforts on behalf of this legislation making it possible for us to be on the floor with this bill today.

Mr. Speaker, Senator Connally was a longtime resident of Marlin and a dedicated advocate for veterans. He had a distinguished record of public service. He served in the Texas House of Representatives from 1901 to 1904 and then worked as prosecuting attorney for Falls County, TX, from 1906 through 1910.

□ 1810

Tom Connally served in the House from 1917 through 1929. He was then elected to the U.S. Senate in 1928 and served there until he retired in 1953.

The Senator served as a sergeant major in the 2d Regiment, Texas Volunteer Infantry during the Spanish-American War. While in the U.S. House of Representatives, he voted to declare World War I and then took a leave of absence to serve as a captain and adjutant of the 22d Infantry Brigade.

Senator Connally was a well-respected Member of the U.S. Senate. As chairman of the Committee on Foreign Relations, he devised foreign policies to protect the freedoms for which he personally fought. The then Senate majority leader, Lyndon B. Johnson, in a tribute to Senator Connally upon his retirement, called him this:

* * * A man of great warmth, of deep perception, of broad humanity * * *. At international conferences, in the United Nations, in world councils, his keen mind and his powers of oratory have been a mighty force for the United States. His grasp of the present and his high vision of the future have brought to the entire globe a picture of America at its best. Tom Connally is a man among men, a statesman who belongs to the ages.

Mr. Speaker, this bill is supported by all members of the Texas delegation, 27 Congressmen and 2 Senators. The renaming is also endorsed by all major veterans service organizations from the State of Texas. This overwhelming support indicates the wide-reaching respect that Senator Connally achieved as a public servant.

In closing, I want to thank all of the citizens of Marlin for their efforts, month after month, in trying to get this bill to the floor. Without their help and their commitment to renaming this facility, we would not be here today.

Senator Tom Connally was a fine statesman and soldier. I believe that the renaming of this VA hospital is a fitting tribute for such an American patriot. In fact, I can think of few honors that any American veteran would feel more honored to have than to have a VA medical center named in his honor.

Senator Connally left a great legacy for this country, and this VA hospital will leave a great legacy for Senator Connally.

Mr. Chairman, I thank you for your support in this legislation.

Mr. MONTGOMERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY].

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–781) on the resolution (H. Res. 537) providing for the consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5491, a bill to name the Department of Veterans Affairs medical center in Marlin, TX, for Thomas T. Connally.

I urge my colleagues to support this legislation, which is a fitting tribute to the distinguished gentleman who devoted his life to service to his country, State, and family.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Subcommittee on Hospitals and Health Care, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of H.R. 5491, a bill to designate the VA medical center in Marlin, TX, as the "Thomas T. Connally VA Medical Center."

As Representative Edwards explained in greater detail, Senator Connally spent a total of 36 years serving his constituents as a legislator in both bodies of this Congress. Senator Connally's accomplishments over the course of his lifetime are numerous, and it is only fitting that he be honored by naming the Marlin VA medical facility after him.

I urge my colleagues to support H.R. 5491.

Mr. MONTGOMERY. Mr. Speaker, I rise in total support of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I would like to take a moment to thank the gentleman from Texas [Mr. EDWARDS] for all his work in bringing this honor to Mr. Connally. He did a good job on this, and we thank him.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5491.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ADMINISTRATION OF VETERANS EDUCATION BENEFITS TECHNICAL REORGANIZATION ACT

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5619) to reorganize technically chapter 36 title 38, United States Code, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administration of Veterans Education Benefits Technical Reorganization Act".

SEC. 2. TECHNICAL REORGANIZATION OF CHAPTER 36.

Chapter 36 of title 38, United States Code, is amended to read as follows:

"CHAPTER 36—ADMINISTRATION OF EDUCATION BENEFITS

"SUBCHAPTER I—DEFINITIONS

"§ 3601. Definitions

"(a) Except as provided otherwise, for purposes of this chapter and chapters 30, 32, and 35:

"(1) The term 'cooperative program' means, other than when referring to a farm cooperative program, a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

"(2) The term 'educational institution' means, except as provided in section 3501(a)(6) for purposes of chapter 35 of this title, any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, scientific or technical institution, or other institution furnishing education for adults.

"(3) The term 'institution of higher learning' means—

"(A) a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree, except that in any case in which there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency;

"(B) a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree; or

"(C) an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

"(4) The term 'program of education' means—

"(A) any curriculum or any combination of unit courses or subjects pursued at an educational institution for the attainment of a predetermined and identified educational, professional, or vocational objective;

"(B) any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field; or

"(C) any unit course or subject, or combination of courses or subjects, pursued at an educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)).

"(5) The term 'standard college degree' means an associate or higher degree awarded by—

"(A) an institution of higher learning that is accredited as a collegiate institution by a regional or national accrediting agency recognized by the Secretary of Education under section 3642 of this title;

"(B) an institution of higher learning that is a 'candidate' for accreditation as that term is used by such a regional or national accrediting agency; or

"(C) an institution of higher learning upon completion of a course which is accredited by an agency recognized by the Secretary of Education under section 3642 of this title to accredit specialized degree-level programs.

"(6) The term 'training establishment' means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university, any State department of education, any State apprenticeship agency, any

State board of vocational education, any joint apprenticeship committee, the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937 (commonly referred to as the "National Apprenticeship Act") (29 U.S.C. 50-50b; 50 Stat. 664), or any other agency of the Federal Government authorized to supervise such training.

"(b) For purposes of this chapter, the term 'individual' means any veteran or other person eligible for or entitled to benefits under chapter 30, 32, 35, or this chapter.

"SUBCHAPTER II—PROGRAM SELECTION; ENROLLMENT

"§ 3611. Selection of program

"Subject to the provisions of this chapter and other applicable provisions of this title, each individual may select a program of education to assist the individual in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with this chapter) selected by the individual that will accept and retain the individual as a student or trainee in any field or branch of knowledge which such institution finds the individual qualified to undertake or pursue.

"§ 3612. Applications; approval

"(a) Any individual who desires to initiate a program of education under this chapter, chapter 30, 32, or 35 shall submit an application to the Secretary which shall be in such form, and contain such information, as the Secretary shall prescribe.

"(b) The Secretary shall approve such application unless the Secretary finds that—

"(1) such individual is not eligible for or entitled to the educational assistance for which application is made;

"(2) the individual's selected educational institution or training establishment fails to meet any requirement of this chapter;

"(3) the individual's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter; or

"(4) the individual is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered.

"(c) The Secretary shall notify the individual of the approval or disapproval of the person's application.

"§ 3613. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an individual in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the individual submits justification showing that the course will be of bona fide use in the pursuit of the individual's present or contemplated business or occupation; or

"(4) any independent study program except one leading to a standard college degree.

"(b) Except as provided in sections 3034(d) and 3241(b) of this title and section 2136(c) of title 10, the Secretary shall not approve the enrollment of an individual in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the individual is seeking.

"(c) The Secretary shall not approve the enrollment of an individual in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an individual in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1)(A) Except as provided in paragraphs (2) and (3) and subject to subparagraph (B) of this paragraph, the Secretary shall not approve the enrollment of any person, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10.

"(B) The Secretary may waive the provisions of this paragraph, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the person involved and the Federal Government.

"(2) The provisions of paragraph (1)(A) shall not apply in the case of any course offered by an educational institution if the total number of persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), unless the Secretary has a reason to believe, as to a particular course, that the enrollment of such persons may be in excess of 85 percent of the total student enrollment in that course.

"(3) Paragraph (1) does not apply with respect to enrollment of a person—

"(A) in a course of special educational assistance prescribed in section 3621 of this title (other than enrollment by an individual on active duty for the purpose of attaining a secondary school diploma or an equivalency certificate);

"(B) in a course of tutorial assistance described in section 3622 of this title;

"(C) in a farm cooperative training course; and

"(D) in a course offered under contract with the Department of Defense as described in section 3645(b)(6) of this title.

"§ 3614. Change of program

"(a) Except as provided in subsections (b) and (c), an individual may make not more than one change of program of education, except an individual whose program has been interrupted or discontinued due to the individual's own misconduct, neglect, or lack of application is not entitled to any such change.

"(b) The Secretary, in accordance with procedures that the Secretary may establish, may approve a program change other than the change authorized under subsection (a) if the Secretary finds that—

"(1) the program of education which the individual proposes to pursue is suitable to the individual's aptitudes, interests, and abilities; and

"(2) in any instance where the individual has interrupted, or failed to progress in, the individual's program due to the individual's misconduct, neglect, or lack of application, there exists a reasonable likelihood with respect to the program which the individual proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Secretary may also approve additional changes in program if the Secretary finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

"(d) As used in this section, the term 'change of program of education' does not include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.

"§ 3615. Education outside the United States

"(a) An individual may not enroll in any course at an educational institution not located in a State unless such course is pursued at an institution of higher learning and the course is approved by the Secretary.

"(b) The Secretary may deny or discontinue educational assistance in the case of any individual enrolled in an institution of higher learning not located in a State if the Secretary determines that such enrollment is not in the best interest of the individual or the Federal Government.

"(c) For the purposes of this section, the term 'State' includes, in the case of an individual entitled to educational assistance under chapter 35 of this title, the Republic of the Philippines.

"SUBCHAPTER III—SPECIAL SUPPLEMENTAL ASSISTANCE

"§ 3621. Elementary and secondary education and preparatory educational assistance

"(a)(1) In the case of any individual who is eligible for or entitled to educational assistance under chapter 35 and who—

"(A) has not received a secondary school diploma (or an equivalency certificate), or

"(B) in order to pursue a program of education for which the individual would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Secretary may, without regard to so much of the provisions of section 3612 of this title as prohibit the enrollment of an individual in a program of education in which the individual is already qualified, approve the enrollment of such individual in an appropriate course or courses or other special educational assistance program.

"(2) The provisions of paragraph (1)(A) shall, in the case of any enlisted member of the Armed Forces who is a chapter 32 participant, also apply to the enrollment of such member in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate) during the last six months of the member's first enlistment and at any time thereafter.

"(3) The provisions of paragraph (1)(B) shall, in the case of an individual not on active duty who is entitled to educational assistance under chapter 32, also apply to the individual's enrollment in refresher or deficiency courses or other preparatory or special educational assistance program.

"(b) The Secretary may, without regard to so much of the provisions of section 3612 of this title as prohibit the enrollment of an individual in a program of education in which the individual is already qualified, and pursuant to such regulations as the Secretary shall prescribe, approve the enrollment of such individual entitled to educational assistance under chapter 30 or 32 in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological

advances which have occurred in the individual's field of employment during and since the period of such individual's active military service), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

"§ 3622. Tutorial assistance

"(a) In the case of any individual who—

"(1) is enrolled in and pursuing a post-secondary program of education on a half-time or more basis at an educational institution; and

"(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Secretary may approve individualized tutorial assistance for such individual if such assistance is necessary for the individual to complete such program successfully.

"(b) The Secretary shall only pay the tutorial assistance allowance authorized by section 3019, 3234, or 3533(b) of this title, as applicable, to an individual receiving tutorial assistance approved pursuant to subsection (a) upon certification by the educational institution in which the individual is enrolled that—

"(1) the individualized tutorial assistance is essential to correct a deficiency of the individual in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(2) the tutor chosen to perform such assistance is qualified to do so and is not the individual's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

"(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"§ 3623. Educational and vocational counseling

"(a) The Secretary shall make available to a person described in subsection (b), upon such person's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the person in selecting—

"(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

"(2) an employment objective that would be likely to provide such person with satisfactory employment opportunities in the light of the person's personal circumstances.

"(b) For the purposes of this section, the term 'person' means a person who—

"(1) is eligible for educational assistance under chapter 30, 31, 32, or 35 of this title or chapter 106 or 107 of title 10;

"(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

"(3) is serving on active duty with the Armed Forces in a State and is within 180 days of the estimated date of such person's discharge or release from active duty under conditions other than dishonorable, including a person who is making a determination of whether to continue as a member of the Armed Forces.

"(c) In any case in which the Secretary has rated the person as being incompetent, the counseling services described in subsection (a) shall be required to be provided to the person before the selection of a program of education or training.

"(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

"(e) The Secretary shall take appropriate steps (including personal notification where feasible) to acquaint all persons described in subsection (b) with the availability and advantages of counseling services under this section.

"§ 3624. Work-study allowance

"(a)(1) Persons utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereafter referred to as 'work-study allowance'). Such work-study allowance shall be paid in an amount equal to the applicable hourly minimum wage times the number of hours worked during the applicable period. The payment shall be made in return for the person's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with—

"(A) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Department of Veterans Affairs employee;

"(B) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department of Veterans Affairs;

"(C) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title;

"(D) any other activity of the Department of Veterans Affairs as the Secretary shall determine appropriate; or

"(E) in the case of a person who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense, Coast Guard, or National Guard facilities.

"(2) A person shall be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the person's agreement to perform the number of hours of work specified in the agreement.

"(3) For the purposes of paragraph (1) and subsection (e), the term 'applicable hourly minimum wage' means—

"(A) the hourly minimum wage under section 6(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

"(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in clause (A) and the Secretary has made a determination to pay such higher wage.

"(b) Notwithstanding any other provision of law, the Secretary shall, subject to subsection (e), utilize, in connection with the activities specified in subsection (a)(1), the services of persons who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 35 (other than a course of special restorative training and only if pursued in a State) of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11. In the event a person ceases to be at least a three-quarter-time student before completing such agreement, the person may, with the approval of the Secretary, be permitted to complete such agreement.

"(c) The Secretary shall determine—

"(1) on the basis of a survey which the Secretary shall conduct annually of each Department regional office, the number of persons whose services the Department can effectively utilize, and the types of services that such persons may be required to perform, during an enrollment period in each geographical area where Department activities are conducted; and

"(2) which persons shall be offered agreements under this section in accordance with criteria contained in regulations which the Secretary shall prescribe, including criteria based on—

"(A) the need of the person to augment the veteran's educational assistance or subsistence allowance;

"(B) the availability to the person of transportation to the place where the person's services are to be performed;

"(C) the motivation of the person; and

"(D) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

"(d) While performing the services authorized by this section, persons shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Office of Personnel Management.

"(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with a person under this section, or a modification of such an agreement, whereby the person agrees to perform services of the kind described in clauses (A) through (E) of subsection (a)(1) and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a), deduct the amount of the allowance from the amount which the person has been determined to be indebted to the United States by virtue of such person's participation in a benefits program under chapter 30, 31, 32, *34*, 35, or this chapter (other than an education loan under section 3625), or under chapter 106 of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

"(2)(A) Subject to subparagraph (B), the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1).

"(B) For the purposes of this subsection, the Secretary may—

"(i) waive, in whole or in part, the limitations in subsection (a) concerning the number of hours and periods during which services can be performed by the person and the provisions of subsection (b) requiring the person's pursuit of a program of rehabilitation, education, or training;

"(ii) in accordance with such terms and conditions as may be specified in the agreement under this subsection, waive or defer charging interest and administrative costs pursuant to section 5315 of this title on the indebtedness to be satisfied by performance of the agreement; and

"(iii) notwithstanding the indebtedness offset provisions of section 5314 of this title, waive or defer, until the termination of an agreement under this subsection, the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the person as described in section 5314.

"(3)(A) Subject to subparagraphs (B) and (C), an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions of the agreement which are consistent with this subsection.

"(B) Subject to subparagraph (C), in no event shall an agreement under this subsection continue in force after the total amount of the person's indebtedness described in paragraph (1) has been recouped, waived, or otherwise liquidated.

"(C) If the Secretary finds that a person was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the person at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

"(4) The Secretary shall promulgate regulations to carry out this subsection.

"§ 3625. Education loans

"(a)(1)(A) Subject to subparagraph (B) of this paragraph, an individual who is pursuing a program of education in a State shall be entitled to an education loan under this section in an amount determined under, and subject to the terms, conditions, and requirements specified in this section.

"(B) Except in the case of an individual to who section 3462(a)(2), as in effect on the date of enactment of this section, or section 3512(f) of this title, is applicable, no loan may be made under this section after September 30, 1981.

"(2)(A) Subject to subparagraph (C) of this paragraph, the amount of the loan to which an individual shall be entitled under this section for any academic year shall be equal to the amount needed by such individual to pursue a program of education at the institution at which the individual is enrolled, as determined under subparagraph (B) of this paragraph.

"(B)(i) The amount needed by an individual to pursue a program of education at an institution for any academic year shall be determined by subtracting (I) the total amount of financial resources (as defined in clause (ii) of this subparagraph) available to the individual which may be reasonably expected to be expended by such individual for educational purposes in any year from (II) the actual cost of attendance (as defined in clause (iii) of this subparagraph) at the institution in which such individual is enrolled.

"(ii) The term 'total amount of financial resources' of any individual for any year means the total of the following:

"(I) The annual adjusted effective income of the individual less Federal income tax paid or payable by such individual with respect to such income.

"(II) The amount of cash assets of the individual.

"(III) The amount of financial assistance received by the individual under the provisions of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(IV) Educational assistance received by the individual under this title other than under this section.

"(V) Financial assistance received by the individual under any scholarship or grant program other than those specified in subclauses (III) and (IV).

"(iii) The term 'actual cost of attendance' means, subject to such regulations as the Secretary may prescribe, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Secretary determines by regulation to be reasonably related to attendance at the institution at which the individual is enrolled.

"(C) The aggregate of the amounts any individual may borrow under this section may not exceed $376 multiplied by the number of months of educational assistance such individual was entitled to receive under section 3461 of this title, as in effect on the date before the date of enactment of this section, but not in excess of $2,500 in any one regular academic year.

"(3) An eligible individual shall be entitled to a loan under this section if such individual—

"(A) is in attendance at an educational institution on at least a half-time basis and (i) is enrolled in a course leading to a standard college degree, or (ii) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Secretary may waive the requirements of clause (ii) of this subparagraph, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the individual and the Federal Government;

"(B) enters into an agreement with the Secretary meeting the requirements of paragraph (4) of this subsection; and

"(C) satisfies any criteria established under paragraph (7) of this subsection.

No loan shall be made under this section to an individual pursuing a program of correspondence, or apprenticeship or other on-job training.

"(4) Any agreement between the Secretary and an individual under this section—

"(A) shall include a note or other written obligation which provides for repayment to the Secretary of the principal amount of, and payment of interest on, the loan in installments (i) over a period beginning nine months after the date on which the borrower ceases to be at least a half-time student and ending ten years and nine months after such date, or (ii) over such shorter period as the Secretary may have prescribed under paragraph (7) of this subsection;

"(B) shall include provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower;

"(C) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the Secretary, at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Secretary of Education under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the Secretary exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and

"(D) shall provide that the loan shall be made without security and without endorsement.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, whenever the Secretary determines that a default has occurred on any loan made under this section, the Secretary shall declare an overpayment, and such overpayment shall be recovered from the individual concerned in the same manner as any other debt due the United States.

"(B) If an individual who has received a loan under this section dies or becomes permanently and totally disabled, then the Secretary shall discharge the individual's liability on such loan by repaying the amount owed on such loan.

"(C) The Secretary shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by paragraph (7)(A) of this subsection to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include—

"(i) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; and

"(ii) data regarding the default experience and default rate with respect to loans made under this subsection.

"(6) Payment of a loan made under this subsection shall be drawn in favor of the individual and mailed promptly to the educational institution in which such individual is enrolled. Such institution shall deliver such payment to the individual as soon as practicable after receipt thereof. Upon delivery of such payment to the individual, such educational institution shall promptly submit to the Secretary a certification, on such form as the Secretary shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 3657(d) of this title for purposes of section 3671(b) of this title.

"(7)(A) The Secretary shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this subsection.

"(B)(i) To ensure that loans are made under this subsection on the basis of financial need directly related to the costs of education, the Secretary may, by regulation, establish (I) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by paragraphs (3) and (4) of this subsection, in order to limit eligibility for such loans to individuals attending educational institutions with relatively high rates of tuition and fees, and (II) criteria under which the Secretary may prescribe a repayment period for certain types of loans made under this subsection that is shorter than the repayment period otherwise applicable under paragraph (4)(A)(i) of this subsection. Criteria established by the Secretary under subclause (I) of the preceding sentence may include a minimum amount of tuition and fees that an individual may pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the individual is eligible as a result of an extension of the period of eligibility of such individual for loans under this section provided for by section 3462(a)(2), as in effect on the date before the date of enactment of this section).

"(ii) In prescribing regulations under clause (i) of this subparagraph, the Secretary shall take into consideration information developed in the course of the review required by subparagraph (A) of this paragraph.

"(iii) Regulations may be prescribed under clause (i) of this subparagraph only after opportunity has been afforded for public comment thereon.

"(b)(1) There is hereby established in the Treasury of the United States a revolving

fund to be known as the 'Department of Veterans Affairs Education Loan Fund' (hereinafter in this subsection referred to as the 'Fund').

"(2) The Fund shall be available to the Secretary, without fiscal year limitation, for the making of loans under this section.

"(3) There shall be deposited in the Fund (A) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to establish and supplement the Fund in order to meet the requirements of the Fund, and (B) all collections of fees and principal and interest (including overpayments declared under subsection (a)(5) of this section) on loans made under this section.

"(4) The Secretary shall determine annually whether there has developed in the Fund a surplus which, in the Secretary's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall be deemed to have been appropriated for readjustment benefits.

"(5)(A) A fee shall be collected from each individual obtaining a loan made under this section for the purpose of insuring against defaults on loans made under this section; and no loan shall be made under this section until the fee payable with respect to such loan has been collected and remitted to the Secretary. The amount of the fee shall be established from time to time by the Secretary, but shall in no event exceed 3 percent of the total loan amount. The amount of the fee may be included in the loan to the individual and paid from the proceeds thereof.

"SUBCHAPTER IV—STATE APPROVING AGENCIES

"§3631. Designation and responsibility of State approving agency

"(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the 'State approving agency' for such State for the purposes of this chapter and chapters 30, 32, and 35.

"(b) Each designated State approving agency shall be responsible for the approval of courses offered by educational institutions or training establishments operating within such agency's respective State jurisdiction. Such course approval shall be in accordance with the provisions of this chapter and chapter 35, applicable regulations prescribed by the Secretary, and such other regulations and policies as the State approving agency may adopt.

"(c)(1) If any State fails or declines to create or designate a State approving agency, or fails to enter into an agreement under section 3634 of this title, the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Secretary.

"(2) In the case of courses subject to approval by the Secretary under section 3632 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Secretary.

"§3632. Cases in which Secretary acts as State approving agency

"(a)(1) The Secretary shall act as a State approving agency and be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education.

"(2) The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapter 35.

"(b) In the case of programs of apprenticeship in which—

"(1) the standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the National Apprenticeship Act) (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State; and

"(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Secretary shall act as a State approving agency and shall be responsible for the approval of all such programs.

"§3633. Cooperation

"(a) The Secretary and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Secretary and each State approving agency under the educational programs established under chapters 30, 32, 35, and this chapter. To assure that such programs are effectively and efficiently administered, the cooperation of the Secretary and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which individuals are enrolled under such chapters.

"(b) The Secretary shall furnish the State approving agencies with copies of Department of Veterans Affairs informational material relating to the carrying out of their duties.

"(c) Each State approving agency shall furnish the Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Secretary as it and the Secretary may determine to be necessary to carry out the purposes of this chapter and chapters 30, 32, and 35 of this title and chapter 106 of title 10.

"§3634. Reimbursement of expenses

"(a)(1)(A) Subject to subparagraph (B) of this paragraph and paragraphs (2) through (4), the Secretary may enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) incurred in—

"(i) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to persons under this chapter and chapters 30, 32, and 35 of this title and chapter 106 of title 10, and in the supervision of such educational institutions; and

"(ii) furnishing, at the request of the Secretary, any other services in connection with such chapters.

"(B) Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters.

"(C) The Secretary may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters and has had the prior approval of the Secretary.

"(2)(A) The Secretary shall make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for—

"(i) the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section;

"(ii) expenses approved by the Secretary that are incurred in carrying out employee training activities described in section 3635(a)(4) of this title (except for administrative overhead expenses allocated in such activities); and

"(iii) the allowance for administrative expenses described in subsection (b).

"(B) The Secretary shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A).

"(C) Subject to paragraph (4), the amount of any such payment made to an agency for any period shall be equal to the amount of—

"(i) the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3);

"(ii) the allowance for such period for administrative expenses described in subsection (b); and

"(iii) the amount of expenses approved by the Secretary that are incurred in carrying out the employee training activities described in section 3635(a)(4) of this title for such period (except for administrative overhead expenses allocated to such activities).

"(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Secretary on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the Secretary.

"(B) The Secretary shall transmit to the Congress on a quarterly basis a report that summarizes—

"(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) with respect to the quarter for which the report is made; and

"(ii) the amounts of the payments made by the Secretary for such quarter with respect to such certifications and with respect to administrative expenses.

"(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the Secretary shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000.	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000 plus $1,155 for each additional $5,000 or fraction thereof.

"Total salary cost reimbursable under this section	Allowable for administrative expense
Over $35,000 but not exceeding $40,000.	$7,548.
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000 plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000 plus $872 for each additional $5,000 or fraction thereof.

"(c) Each State and local agency with which the Secretary contracts or enters into an agreement under subsection (a) shall report to the Secretary periodically, but not less often than annually, as determined by the Secretary, on the activities in the preceding 12 months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Secretary shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 30, 32 and 35 of this title and chapter 106 of title 10 and in supervising such institutions.

"§ 3635. Evaluations of agency performance; qualifications and performance of agency personnel

"(a) The Secretary shall—

"(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Secretary in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

"(2) take into account the results of annual evaluations carried out under clause (1) when negotiating the terms and conditions of a contract or agreement under section 3634 of this title;

"(3) supervise functionally the provision of course-approval services by State approving agencies under this chapter;

"(4) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

"(5) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement entered into under section 3634(a) of this title.

"(b)(1) Each State approving agency carrying out a contract or agreement with the Secretary under section 3634(a) of this title shall—

"(A) apply qualification and performance standards based on the standards developed under subsection (a)(5); and

"(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 3634(a) of this title.

"(2) In developing and applying standards described in subsection (a)(5), the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

"(3) The Secretary shall provide assistance in developing such standards to a State approving agency that requests it.

"SUBCHAPTER V—COURSE APPROVAL

"§ 3641. Scope of approval

"A course approved for purposes of educational assistance benefits provided under laws administered by the Department of Veterans Affairs, as of or after the date of enactment of the Administration of Veterans Education Benefits Technical Reorganization Act, shall be deemed approved for the purposes of such laws unless disapproved under this chapter.

"§ 3642. Approval of accredited courses

"(a) A State approving agency may approve the courses offered by an educational institution if—

"(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

"(2) such courses are conducted under the Act of February 23, 1917 (20 U.S.C. 11–28; 39 Stat. 929) (relating to vocational education); or

"(3) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

"(b) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations that the Secretary determines to be reliable authority as to the quality of training offered by an educational institution, and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin shall specifically state its progress requirements for graduation and must include as a minimum the information required by paragraphs (6) and (7) of section 3643(b) of this title.

"(c) As a continuing condition of approval under this section, the State approving agency must find that—

"(1) the educational institution keeps adequate records showing the progress of each individual and showing that the institution has and enforces satisfactory standards relating to the individual's progress and conduct; and

"(2) the educational institution maintains a written record of the previous education and training of the individual and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the individual and the Secretary so notified.

"§ 3643. Approval of nonaccredited courses

"(a) A course that has not been approved by a State approving agency pursuant to section 3642 of this title and that is offered by a public or private, profit or nonprofit, educational institution shall not be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

"(b) Such application shall be accompanied by not less than two copies of the institution's current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

"(1) Identifying data, such as volume number and date of publication.

"(2) Names of the institution and its governing body, officials and faculty.

"(3) A calendar of the institution showing legal holidays; beginning date and ending date of each quarter, term, or semester; and other important dates.

"(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.

"(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance.

"(6) Institution policy and regulations relative to standards of progress required of the student by the institution, including a description of the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished by the student.

"(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

"(8) Detailed schedules of charges for tuition, books, supplies, tools, student activities, laboratory use, services, rentals, deposits, and of all other fees and charges.

"(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.

"(10) A description of the available space, facilities, and equipment.

"(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate period of time required for completion of, and clock hours to be spent on, each subject or unit.

"(12) Policy and regulations of the institution relative to granting credit for previous educational training.

"(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

"(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State with recognized accepted standards.

"(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

"(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

"(4) The institution maintains a written record of the previous education and training of the individual and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the individual and the Secretary so notified.

"(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct is furnished the individual upon enrollment.

"(6) Upon completion of training, the individual is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

"(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

"(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building, and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

"(9) The institution is financially sound and capable of fulfilling its commitments for training.

"(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

"(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

"(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

"(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the individual fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion, and such policy must provide that the amount charged to the individual for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

"(14) Such additional criteria as may be deemed necessary by the State approving agency.

"(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) in the case of an educational institution which—

"(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree;

"(2) is operated by an agency of a State or of a unit of local government;

"(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction; and

"(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

"§ 3644. Approval of training on the job

"(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only if it finds that—

"(1) the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover; and

"(2) the provisions of subsections (b) and (c) are met.

"(b) Each training establishment offering training for which approval is sought for the purposes of this chapter shall submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

"(1) the wages to be paid the individual—

"(A) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 percent of the wages paid for the job for which the individual is to be trained; and

"(B) will be increased in regular, periodic increments until, not later than the last full month of the training period, they are at least 85 percent of the wages paid for the job for which such individual is being trained; and

"(2) there is reasonable certainty that the job for which the individual is to be trained will be available to the individual at the end of the training period.

"(c) As a condition for approving a program of training on the job (other than a program of apprenticeship), the State approving agency must find upon investigation that the following criteria have been met:

"(1) The training content of the program is adequate to qualify the individual for appointment to the job for which the individual is to be trained.

"(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

"(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide a person with the required skills and to arrange for the acquiring of job knowledge, technical information, and other facts which the individual will need to learn in order to become competent on the job for which the individual is being trained.

"(4) Provision is made for related instruction for the individual who may need it.

"(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"(6) Adequate records are kept to show the progress made by each individual toward the individual's job objective.

"(7) No program of training will be considered bona fide if given to an individual who is already qualified by training and experience for the job.

"(8) A signed copy of the training agreement for each individual, including the training program and wage scale as approved by the State approving agency, is provided to the individual and to the Secretary and the State approving agency by the employer.

"(9) The program meets such other criteria as may be established by the State approving agency.

"(d) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of this section and shall utilize the services of disabled veterans' outreach program specialists under section 4103A of this title to promote the development of such programs.

"§ 3645. Period of operation for approval

"(a) Except as provided in subsection (b), the Secretary shall not approve the enrollment of any individual in any course offered by an educational institution if such course has been in operation for less than two years.

"(b) Subject to subsection (c), subsection (a) shall not apply to—

"(1) any course to be pursued in a public or other tax-supported educational institution;

"(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

"(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

"(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree;

"(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education for the educationally disadvantaged consisting of courses leading to an elementary or secondary school diploma (or an equivalency certificate), preparatory courses needed for qualification for admission to an appropriate educational institution, or tutorial assistance (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years; or

"(6) any course offered by an educational institution under a contract with the Department of Defense that—

"(A) is given on, or immediately adjacent to, a military base;

"(B) is available only to active duty military personnel or their dependents, or both, and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106 of title 10; and

"(C) has been approved by the State approving agency of the State in which the base is located;

except that the Secretary may waive the requirements of this clause, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that it is in the interest of the person concerned and the Federal Government.

"(c) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) of subsection (b), the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

"(1) a public or other tax-supported institution if the branch or extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

"(2) a proprietary profit or proprietary nonprofit educational institution if the branch or extension is located beyond the normal commuting distance of such institution,

except that Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that it is in the interest of the person concerned and the Federal Government.

"§ 3646. Notice of approval of courses

"The State approving agency, upon determining that an educational institution has

complied with all the requirements of this chapter, shall issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter and shall furnish an official copy of such letter and any subsequent amendments to the Secretary. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

"(1) The date of the letter and the effective date of approval of the courses.

"(2) The proper address and name of each educational institution.

"(3) The authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution.

"(4) The name of each course approved.

"(5) Where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio.

"(6) The signature of the responsible official of the State approving agency.

"(7) Such other fair and reasonable provisions considered necessary by the appropriate State approving agency.

"§ 3647. Disapproval of courses

"(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency shall be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

"(b)(1) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section and, in the case of a disapproval of a previously approved course, shall include in such notice the reasons for such disapproval.

"(2) The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution for the purposes of chapter 31.

"SUBCHAPTER VI—CONDITIONS AND LIMITATIONS ON PAYMENTS

"§ 3651. Payment based on approved course enrollment and satisfactory pursuit

"(a) An individual shall receive the benefits of this chapter or chapter 30, 32, and chapter 35 while enrolled in a program of education offered by an educational institution only if—

"(1) the course or courses comprising such program are approved as provided in this chapter by the State approving agency for the State in which such educational institution is located, or by the Secretary; or

"(2) such course or courses are approved by the Secretary—

"(A) for the enrollment of the particular person in a specialized course of vocational training under the provisions of section 3536 of this title; or

"(B) for special restorative training under subchapter V of chapter 35.

"(b) Educational assistance or subsistence allowances for persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 30, 31, 32, or 35 shall be paid as provided in such chapter and this chapter, as applicable, only for the period of such person's enrollment in, and pursuit of, such program, but no amount shall be paid—

"(1) except as provided in subsection (c), to any person for any period when such person is not pursuing such person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Secretary pursuant to subsection (d), and with the requirements of this chapter or chapter 30, 31, 32, or 35, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

"(2) to any person for auditing a course;

"(3) to any person for a course for which the grade assigned is not used in computing the requirements for graduation, including a course from which the student withdraws, unless—

"(A) the person withdraws because he or she is ordered to active duty; or

"(B) the Secretary finds there are mitigating circumstances, except that, in the first instance of withdrawal (without regard to withdrawals described in subparagraph (A) of this clause) by a person from a course or courses with respect to which such person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof; or

"(4) to any person for pursuit of a program of education exclusively by correspondence as authorized under section 3661 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than six months, with the certification of the normal period of time required to complete the course being made to the Secretary by the educational institution.

"(c) The Secretary may, subject to such regulations as the Secretary shall prescribe, continue to pay allowances to persons referred to in subsection (b)(1)—

"(1) during periods when the schools are temporarily closed under an established policy based upon an Executive Order of the President or because of an emergency situation;

"(2) during periods between consecutive school terms where such persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days; or

"(3) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the person on a semester, term, or quarter basis if the interval between such periods does not exceed one calendar month.

"(d)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by a person for any period for which the person receives an educational assistance or subsistence allowance under this chapter or chapter 30, 31, 32, or 35 for pursuing such program or course.

"(2) Except as provided in subchapter VII relating to correspondence, apprenticeship, and other on-job training courses—

"(A) subject to such reports and proof as the Secretary may require to show a person's enrollment in and satisfactory pursuit of such person's program, the Secretary may withhold payment of benefits to such person until the required proof is received and the amount of the payment is appropriately adjusted; and

"(B) the Secretary may accept such individual's monthly certification of enrollment in and satisfactory pursuit of such person's program as sufficient proof of the certified matters.

"(e) A person enrolled under chapter 30, 31, 32, or 35 or under this chapter shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of such person. The date of such interruption or termination shall be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

"§ 3652. Discontinuance for unsatisfactory attendance, conduct, or progress

"(a) The Secretary shall discontinue the educational assistance allowance of any individual if, at any time, the Secretary finds that according to the regularly prescribed standards and practices of the educational institution, the individual's attendance, conduct, or progress is unsatisfactory.

"(b) The Secretary may renew the payment of the educational assistance allowance only if the Secretary finds that—

"(1) the individual will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such individual's reenrollment and certified it to the Department; or

"(2) in the case of a proposed change of either educational institution or program of education by the individual—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the individual's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 3614 of this title.

"§ 3653. Measurement of courses

"(a) For the purposes of this chapter and chapters 30, 32, and 35—

"(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of 30 hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than five hours of supervised study per week allowed, but if such course is approved pursuant to section 3642(a)(1) of this title, then 22 hours per week of attendance, with no more than two and one-half hours of rest period per week allowed and excluding supervised study, shall be considered full time;

"(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of 25 hours per week net of instruction and not more than five hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 3642(a)(1) of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

"(3) an academic high school course requiring 16 units for a full course shall be considered a full-time course when—

"(A) a minimum of four units per year is required, with a unit being not less than 120 sixty-minute hours or their equivalent of study in any subject in one academic year; or

"(B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years;

"(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of 14 semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Secretary, that—

"(A) full-time tuition is charged to all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof; or

"(B) all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes,

then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than 12 semester hours or the equivalent thereof, then 12 semester hours or the equivalent thereof shall be considered a full-time course;

"(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the individual is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than 30 hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

"(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 3621(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4), as determined by the educational institution; and

"(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) if—

"(A) such course is approved pursuant to section 3642 of this title; and

"(B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.

"(b) For the purposes of subsection (a), the term 'in residence on a standard quarter- or semester-hour basis' means study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term 'standard class session' means one hour (or 50-minute period) of academic instruction, two hours (or two 50-minute periods) of laboratory instruction, or three hours (or three 50-minute periods) of workshop training.

"(c) Notwithstanding paragraphs (1) and (2) of subsection (a), an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full-time measured on the same basis as provided by clause (4) of such subsection), if—

"(1) the academic portions of such courses require outside preparation and are measured on not less than one quarter or one semester hour for each 50 minutes net of instruction per week per quarter or semester;

"(2) the laboratory portions of such courses are measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and

"(3) the shop portions of such courses are measured on not less than one quarter or one semester hour for each three hours (or three 50-minute periods) of attendance per week per quarter or semester,

except that in no event shall such a course be considered a full-time course when less than 22 hours per week of attendance is required.

"(d) The Secretary shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 30, 32, or 35.

"(e) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

"(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including—

"(A) payment of tuition and fees;

"(B) the awarding of academic credit for the purpose of meeting graduation requirements; and

"(C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4);

"(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

"(3) such course would qualify as a full-time course under subsection (a)(4), except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

"(4) the course requires—

"(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

"(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4).

"(f)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2). Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1), the total number of credit hours being pursued shall be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a), as appropriate, by the number of semester hours (or equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.

"§ 3654. Bar to concurrent educational assistance

"(a) No person shall be paid educational assistance allowance under chapter 30, 32, 35, or this chapter, or chapter 106 or 107 of title 10, or subsistence allowance under chapter 31, for pursuit of a course of education or training if—

"(1) the person is on active duty and such course of education or training is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or

"(2) the course of education or training is being paid for under chapter 41 of title 5 and such person's full salary is being paid to the person while pursuing such course of education or training.

"(b) No person may receive benefits concurrently under two or more of the following provisions of law:

"(1) This chapter and chapters 30, 31, 32, and 35.

"(2) Chapters 106 and 107 of title 10.

"(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note).

"(4) The Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note).

"(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399).

"§ 3655. Limitation on period of assistance under two or more programs

"(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

"(1) The War Orphans' Educational Assistance Act of 1956.

"(2) This chapter and chapters 30, 32, and 35, and the former chapters 33 and 34.

"(3) Chapters 106 and 107 of title 10.

"(4) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 10 U.S.C. 2141 note).

"(5) The Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note).

"(6) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399).

"(b) No person may receive assistance under chapter 31 in combination with assistance under any of the provisions of law cited

in subsection (a) in excess of 48 months (or the part-time equivalent thereof) unless the Secretary determines that additional months of benefits under chapter 31 are necessary to accomplish the purposes of a rehabilitation program (as defined in section 3101(6) of this title) in the person's case.

"§ 3656. Payment to persons incarcerated

"(a)(1) Notwithstanding sections 3015, 3231, and 3532 of this title, section 2131 of title 10, and any other provision of law other than paragraph (2) of this subsection and subsection (b) of this section, the amount of the educational assistance allowance paid to a person who is pursuing a program of education under this chapter or chapter 30, 32, or 35 of this title or chapter 106 of title 10 while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed—

"(A) such amount as the Secretary determines, in accordance with regulations which the Secretary shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment; or

"(B) the applicable monthly educational assistance allowance prescribed for a person under this chapter or chapter 30, 32, or 35 of this title or chapter 106 of title 10, as applicable,

whichever is the lesser.

"(2) The amount of the educational assistance allowance payable to a person while so incarcerated shall be reduced to the extent that the tuition and fees of the person for any course are paid under any Federal program (other than a program administered by the Secretary) or under any State or local program.

"(b) Subsection (a) shall not apply in the case of any person who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such person's conviction of a felony.

"§ 3657. Advance payment of educational assistance or subsistence allowance

"(a) The educational assistance or subsistence allowance advance payment provided for in this section is based upon a finding by the Congress that persons receiving such assistance or allowance under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10 may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

"(b)(1) Subject to the other provisions of this subsection, and under regulations which the Secretary shall prescribe, such a person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment.

"(2) Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month.

"(3) In the case of a person on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable.

"(4) The Secretary may not make an advance payment under this section—

"(A) to any person intending to pursue a program of education on less than a half-time basis; or

"(B) to any other person unless the individual requests such payment and the Secretary finds that the educational institution at which such person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (2) and (3) of subsection (d) and the provisions of subsection (e).

"(5) The application for advance payment, to be made on a form prescribed by the Secretary, shall—

"(A) in the case of an initial enrollment of a person in an educational institution, contain information showing that the person—

"(i) is eligible for educational benefits;

"(ii) has been accepted by the institution; and

"(iii) has notified the institution of such person's intention to attend that institution; and

"(B) in the case of a re-enrollment, contain information showing that the person—

"(i) is eligible to continue such person's program of education or training; and

"(ii) intends to re-enroll in the same institution,

and, in both cases, shall also state the number of semester or clock-hours to be pursued by such person.

"(c) For purposes of the Secretary's determination whether any person is eligible for an advance payment under this section, the information submitted by the institution or the person shall establish such person's eligibility unless there is evidence in such person's file in the processing office establishing that the person is not eligible for such advance payment.

"(d) The advance payment authorized by this section shall, in the case of any person, be—

"(1) drawn in favor of the person;

"(2) mailed to the educational institution listed on the application form for temporary care and delivery to the individual by such institution; and

"(3) delivered to the person upon such person's registration at such institution,

but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

"(e)(1) Upon delivery of the advance payment pursuant to subsection (d), the institution shall submit to the Secretary a certification of such delivery.

"(2) If such delivery is not effected within 30 days after commencement of the program of education in question, such institution shall return such payment to the Secretary forthwith.

"§ 3658. Overpayments

"(a) Whenever the Secretary finds that an overpayment has been made to any person the amount of such overpayment shall constitute a liability of such person to the United States.

"(b) If any person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under section 3657 of this title, shall become an overpayment and shall constitute a liability of such person to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) may be recovered, unless waived pursuant to section 5302 of this title, from any benefit otherwise due such person under any law administered by the Department of Veterans Affairs or may be recovered in the same manner as any other debt due the United States.

"§ 3659. Payments for less than half-time training

"Payment of educational assistance allowance in the case of an individual pursuing a program of education under chapter 30, 32, or 35 of this title on less than a half-time basis shall be made in an amount computed for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided time under the applicable chapter of this title.

"SUBCHAPTER VII—CORRESPONDENCE AND APPRENTICESHIP OR OTHER ON-JOB TRAINING

"§ 3661. Correspondence courses

"(a)(1) Each individual (other than a child described in section 3501(a)(1)(A) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 55 percent (or 100 percent in the case of an individual receiving benefits under chapter 32) of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the individual.

"(2) For purposes of paragraph (1), the term 'established charge' means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the individual, whichever is the lesser.

"(3) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(4) The period of entitlement of any individual who is pursuing any program of education exclusively by correspondence shall be charged with one month for each payment of educational assistance to such individual that is equal to the amount of monthly educational assistance the individual would otherwise receive for full-time pursuit of an institutional course under chapter 30, 32, 35, or this chapter, as applicable.

"(5) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Department of Veterans Affairs readjustment benefits account shall be available for payments under paragraph (1) for pursuit of a program of education exclusively by correspondence.

"(b) The enrollment agreement shall fully disclose the obligation of both the institution and the individual concerned and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Secretary to the individual. A copy of the enrollment agreement shall be furnished to each such individual at the time such individual signs such agreement. No such agreement shall be effective unless such individual shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Secretary a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the individual at any time notifies the institution of such individual's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

"(c)(1) In the event the individual elects to terminate enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 3643 of this title) may charge the individual a registration or similar fee not in excess of 10 percent of the tuition for the course, or $50, whichever is less.

"(2) Where the individual elects to terminate the agreement after completion of one or more but less than 25 percent of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 percent of the tuition for the course.

"(3) Where the individual elects to terminate the agreement after completion of 25 percent but less than 50 percent of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 percent of the course tuition.

"(4) If 50 percent or more of the lessons are completed, no refund of tuition is required.

"(d) No educational assistance allowance shall be paid to an individual enrolled in and pursuing a program of education exclusively by correspondence until the Secretary shall have received—

"(1) from the individual a certificate as to the number or lessons actually completed by the individual and serviced by the educational institution; and

"(2) from the training establishment a certification or an endorsement on the individual's certificate, as to the number of lessons completed by the individual and serviced by the institution.

"§ 3662. Apprenticeship or other on-job training

"(a) An individual shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

"(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the National Apprenticeship Act) (29 U.S.C. 50a); or

"(2) program of other on-job training approved under the provisions of section 3644 of this title.

"(b)(1) Except as provided in paragraphs (2) and (3), the amount of the monthly training assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training is—

"(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the full-time rate of the monthly educational assistance allowance otherwise payable to such individual under the applicable chapter;

"(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such full-time rate of monthly educational assistance allowance; and

"(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such full-time rate of monthly educational assistance allowance.

"(2) The monthly training assistance allowance payable under chapter 35 to an individual pursuing a program described in subsection (a) shall be $294 for the first six months, $220 for the second six months, $146 for the third six months, and $73 for the fourth and any succeeding six-month periods of training.

"(3) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

"(4)(A) Except as provided in subparagraphs (B) and (C), for each month that an individual is paid a monthly training assistance allowance, the individual's entitlement under the chapter applicable to the individual shall be charged at the rate of—

"(i) 75 percent a month in the case of payments made in accordance with paragraph (1)(A);

"(ii) 55 percent a month in the case of payments made in accordance with paragraph (1)(B); and

"(iii) 35 percent a month in the case of payments made in accordance with paragraph (1)(C).

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (3).

"(C) For each month an individual is paid a monthly training assistance allowance under paragraph (2), the individual's under entitlement shall be charged at the rate of a month for each month that an individual is paid.

"(c) For the purpose of this chapter—

"(1) the terms 'program of apprenticeship' and 'program of other on-job training' shall have the same meaning as 'program of education', as defined in section 3601 of this title; and

"(2) a training assistance allowance shall be considered to be an educational assistance allowance.

"(d) No training assistance allowance shall be paid to an individual enrolled in and pursuing a program of apprenticeship or other on-job training until the Secretary shall have received—

"(1) from such individual a certification as to such individual's actual attendance during such period; and

"(2) from the training establishment a certificate, or an endorsement on the individual's certificate, that such individual was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

"SUBCHAPTER VIII—EDUCATIONAL AND TRAINING INSTITUTION REPORTING; COMPLIANCE

"§ 3671. Reports by educational and training institutions; reporting fee

"(a)(1) Except as provided in paragraph (2), each educational institution offering a course in which a person is enrolled under this chapter, chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of each such person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

"(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Secretary may approve a delay by the educational institution in reporting the enrollment or reenrollment of a person until the end of the term, quarter, or semester if the educational institution requests the delay and the Secretary determines that it is not feasible for the educational institution to monitor interruption or termination of the person's pursuit of such program.

"(B) An educational institution which, pursuant to subparagraph (A), is delaying the reporting of the enrollment or reenrollment of a person shall provide the person with notice of the delay at the time that the person enrolls or re-enrolls.

"(3)(A) Subject to subparagraph (B), an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a person who is not on active duty in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

"(B) Subparagraph (A) shall not apply with respect to any term, quarter, or semester for which a person is enrolled on a less than half-time basis and shall not be construed as restricting the Secretary from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

"(b) The Secretary, before making payment of a reporting fee to an educational institution, as provided for in subsection (c), shall require such institution to certify that—

"(1) it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of persons under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10 meets all the requirements of this chapter; and

"(2) it will, without delay, report any failure to meet any such requirement to the Secretary.

"(c)(1) The Secretary may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 30, 31, 32, 35 of this title or chapter 106 of title 10 a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Secretary by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of persons enrolled under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, or $11 in the case of those persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 3657 of this title, on October 31 of that year; except that the Secretary may, where it is established by such educational institution or joint apprenticeship training committee that the enrollment of such persons on such date varies more than 15 percent from the peak enrollment of such persons in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee.

"(2) The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable.

"(3) No reporting fee payable to an educational institution under this subsection

shall be subject to offset by the Secretary against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 3672 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

"§ 3672. Liability of institutions for overpayments

"(a) Whenever the Secretary finds that an overpayment has been made to a person as the result of—

"(1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, to the Department of Veterans Affairs excessive absences from a course, or discontinuance or interruption of a course by the person; or

"(2) the willful or negligent false certification by an educational institution,

the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(b) Any overpayment referred to in subsection (a) may be recovered, except as otherwise provided in section 3671(c)(3) of this title, in the same manner as any other debt due the United States.

"(c)(1) Any overpayment amount collected from a person pursuant to this chapter shall be reimbursed to the educational institution which is liable pursuant to this section to the extent that collection was made from the educational institution for such overpayment.

"(2) Nothing in this section or any other provision of this title shall be construed as—

"(A) precluding the imposition of any civil or criminal liability under this title or any other law; or

"(B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

"§ 3673. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

"(a) OVERCHARGES BY EDUCATIONAL INSTITUTIONS.—If the Secretary finds that an educational institution has—

"(1) charged or received from any person receiving educational assistance or subsistence allowance for pursuing a program of education under any of the laws administered by the Department of Veterans Affairs any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such laws who are enrolled in the same course to pay; or

"(2) instituted a policy or practice with respect to the payment of tuition, fees, or other charges in the case of persons receiving educational assistance or subsistence allowance under any of the laws administered by the Department of Veterans Affairs, and the Secretary finds that the effect of such policy or practice substantially denies to such persons the benefits of the advance allowances under section 3657 of this title,

the Secretary may disapprove such educational institution for the enrollment of any such person not already enrolled therein.

"(b) DISCONTINUANCE OF ALLOWANCES.—(1) The Secretary may discontinue the educational assistance or subsistence allowance of any person if the Secretary finds that the program of education or any course in which the person is enrolled fails to meet any of the requirements of this chapter or chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10, or if the Secretary finds that the educational institution offering such program or course has violated any provision, or fails to meet any requirement, of such chapters.

"(2) Except as provided in paragraph (3), any action by the Secretary under paragraph (1) to discontinue (including to suspend) assistance provided to any person under the chapters referred to in paragraph (1) shall be based upon evidence that the person is not or was not entitled to such assistance. Whenever the Secretary so discontinues any such assistance, the Secretary shall concurrently provide written notice to such person of such discontinuance and the person's right thereafter to be provided a statement of the reasons for such action and an opportunity to be heard thereon.

"(3)(A) The Secretary may suspend educational assistance to persons already enrolled, and may disapprove the enrollment or reenrollment of any person, in any course as to which the Secretary has evidence showing a substantial pattern of persons who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because—

"(i) the course approval requirements of this chapter are not being met; or

"(ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter, chapter 30, 31, 32, or 35 of this title or chapter 106 of title 10.

"(B) Action may be taken under subparagraph (A) only after—

"(i) the Secretary provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

"(ii) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Secretary determines is reasonable and appropriate) take corrective action; and

"(iii) the Secretary, not less than 30 days before taking action under such subparagraph, provides to each person already enrolled in such course written notice of the Secretary's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Secretary has determined is reasonable and appropriate), and of the date on which the Secretary intends to take action under such subparagraph.

"(c) EXAMINATION OF RECORDS.—Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to persons who received an educational assistance or a subsistence allowance under any of the laws administered by the Department of Veterans Affairs as well as the records of other students which the Secretary determines necessary to ascertain institutional compliance with the requirements of such laws, shall be available for examination by duly authorized representatives of the Government.

"(d) FALSE OR MISLEADING STATEMENTS.—Whenever the Secretary finds that an educational institution has willfully submitted a false or misleading claim, or that a person, with the complicity of an educational institution, has submitted such a claim, the Secretary shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

"§ 3674. Limitation on certain advertising, sales, and enrollment practices

"(a) The Secretary shall not approve an educational assistance or subsistence allowance under any of the laws administered by the Department of Veterans Affairs with respect to the enrollment of any person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

"(b) To ensure compliance with this section, any institution offering courses approved under this chapter for enrollment shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period, including any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution. Such record shall be available for inspection by the State approving agency or the Secretary.

"(c) The Secretary shall, pursuant to section 3683 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Secretary's determinations under subsection (a). Such agreement shall provide that cases arising under subsection (a) or any similar matters with respect to any requirement of any of the laws administered by the Department of Veterans Affairs shall be referred to the Federal Trade Commission which, in its discretion, will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Secretary who shall take appropriate action in such cases within 90 days after such referral.

"SUBCHAPTER IX—GENERAL ADMINISTRATIVE PROVISIONS

"§ 3681. Compliance surveys

"(a) Except as provided in subsection (b), the Secretary shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of persons receiving an educational assistance or education subsistence allowance under any of the laws administered by the Department of Veterans Affairs if at least 300 of such persons are enrolled in such course or courses under such laws or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of such chapters. The Secretary shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Secretary may waive the requirement in subsection (a) for an annual compliance survey with respect to an institution if the Secretary determines, based on the institution's demonstrated record of compliance with the applicable provisions of laws admin-

istered by the Department of Veterans Affairs, that the waiver would be appropriate and in the best interest of the United States.

"§ 3682. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b), educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to a person under section 3623 of this title or to a person applying for or receiving benefits under section 1524, this chapter, or chapter 30, 32, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

"(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.

"§ 3683. Use of other Federal agencies

"In carrying out the Secretary's functions under any of the laws administered by the Department of Veterans Affairs that provide educational assistance or an education subsistence allowance, the Secretary may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to an agreement with the Federal department or agency concerned. Payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

"§ 3684. Control by agencies of the United States

"(a) Except as provided in section 3635 of this title and subsection (b), no department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution.

"(b) Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of an educational assistance or a subsistence allowance under any of the laws administered by the Department of Veterans Affairs in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

"§ 3685. Conflicting interests

"(a) Every officer or employee of the Department of Veterans Affairs who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which a person was pursuing a program of education or course under any of the laws administered by the Department of Veterans Affairs shall be immediately dismissed from such officer's or employee's office or employment.

"(b) If the Secretary finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which a person was pursuing a program of education or course under any of the laws administered by the Department of Veterans Affairs, the Secretary shall discontinue making payments under section 3634 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person, and such payments shall not be resumed while such person is an officer or employee of the State approving agency, the State department of veterans' affairs, or the State department of education.

"(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Department of Veterans Affairs or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

"(d) The Secretary may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Department of Veterans Affairs or of a State approving agency, if the Secretary finds that no detriment will result to the United States or to persons by reasons of such interest or connection of such officer or employee.

"§ 3686. Advisory committee

"(a) There shall be a Veterans' Advisory Committee on Education formed by the Secretary which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to persons enrolled under this chapter or chapter 30, 32, or 35. The committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, the post-Vietnam era, and the Persian Gulf war. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

"(b) The Secretary shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 30, 32, and 35. The committee may make such reports and recommendations as it considers desirable to the Secretary and the Congress.

"(c) The committee shall remain in existence until December 31, 1993.

"§ 3687. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any person or take other adverse action against such person, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the person concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the person's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

SEC. 3. REPEAL OF CHAPTER 34.

Chapter 34 of title 38, United States Code, is repealed.

SEC. 4. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 7722(b) is amended by striking out "veteran-student services under section 3485" and inserting in lieu thereof "services under section 3624".

(2) Section 1524(b)(2)(B)(iii) is amended by striking out "3452(b) and 3452(f)" and inserting in lieu thereof "3601(a)(4) and (a)(3)".

(3) Section 1712A(d) is amended by striking out "who are", the second place it appears, through "title)" and inserting in lieu thereof "described in section 3624".

(4) Section 3002(3) is amended to read as follows:

"(3) The term 'program of education' has the meaning given such term in section 3601.".

(5) Section 3011(a)(1)(B) is amended, in the matter preceding clause (i), by striking out "is" and inserting in lieu thereof "was".

(6) Section 3012(a)(1)(B) is amended by striking out "is" and inserting in lieu thereof "was".

(7) Section 3013 is amended by striking out "section 3695" each place it appears and inserting in lieu thereof "section 3655."

(8) Section 3016(b)(1) is amended by striking out "is" and inserting in lieu thereof "was".

(9) Section 3019(a) is amended by striking out "3492" and inserting in lieu thereof "3622".

(10) Section 3032(c) is amended to read as follows:

"(c) Subject to section 3662 of this title, an individual entitled to educational assistance under this chapter and not serving on active duty may pursue a full-time program of apprenticeship or other on-job training under this chapter.".

(11) Section 3032(d) is amended by inserting the following new sentence before the first sentence: "An individual entitled to educational assistance under this chapter and not serving on active duty may pursue a cooperative program under this chapter.".

(12) Section 3032(e) is amended to read as follows:

"(e) Subject to section 3661 of this title, an individual entitled to educational assistance under this chapter may enter into an agreement to pursue, and may pursue, a program of education exclusively by correspondence under this chapter.".

(13) Section 3034(a) is amended to read as follows:

"(a) The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter.".

(14) Section 3101(3) is amended to read as follows:

"(3) The term 'program of education' has the meaning given such term in section 3601(a)(4) of this title.".

(15) Section 3104(a)(4) is amended by striking out "3485" and inserting in lieu thereof "3624".

(16) Section 3108 is amended—

(A) in subsection (f)(1)(A), by striking out "or 34", "either", and "or chapter 34";

(B) in subsection (f)(1)(B), by striking out "or 34"; and

(C) in subsection (i), by striking out "section 3680(d)" and inserting in lieu thereof "section 3657".

(17) Section 3116(b)(2) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(18) Section 3202(1) is amended—

(A) in subparagraph (A)—

(i) by striking out "is" and inserting in lieu thereof "was"; and

(ii) by inserting ", as in effect before January 1, 1990," after "of this title";

(B) in subparagraph (D)(ii)—

(i) by striking out "is entitled under section 3452(a)(3)(C) of this title" and inserting in lieu thereof "was entitled";

(ii) by inserting after "title," the following: "as in effect before January 1, 1990,"; and

(iii) by striking out "is eligible" and inserting in lieu thereof "was eligible".

(19) Section 3202 is amended—

(A) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'program of education' has the meaning given such term in section 3601(a)(4) of this title.";

(B) in paragraph (4), by striking out "3452(c)" and inserting in lieu thereof "3601(a)(2)"; and

(C) in paragraph (5), by striking out "3452(e)" and inserting in lieu thereof "3601(a)(6)".

(20) Section 3231 is amended—

(A) in subsection (a)(1), by striking out "section 3695" and inserting in lieu thereof "section 3655";

(B) in subsection (a)(2), by striking out "section 3233" and inserting in lieu thereof "3662";

(C) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) An individual entitled to benefits under this chapter shall also be entitled to the special supplemental assistance provided under subchapter III of chapter 36 if such individual meets the conditions set forth in such subchapter.";

(D) in subsection (d)(1), by inserting the following new sentence before the first sentence: "An individual entitled to educational assistance under this chapter and not serving on active duty may pursue a cooperative program under this chapter.";

(E) by striking out subsection (e) and redesignating subsection (f) as subsection (e); and

(F) by striking out "; loan eligibility" in the section heading.

(21) Section 3233 is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"Subject to section 3662 of this title, an individual entitled to educational assistance under this chapter and not serving on active duty may pursue a full-time program of apprenticeship or other on-job training under this chapter. The amount of the monthly benefit payable to an individual for such pursuit (and the entitlement charged therefor) shall be determined in accordance with the provisions of section 3662.".

(22) Section 3243 *3234* is amended—

(1) by amending subsection (a) to read as follows:

"(a) An individual entitled to benefits under this chapter shall also be entitled to a tutorial assistance allowance for individualized tutorial assistance approved by the Secretary under section 3622(a). Such allowance shall be in addition to the amount of other benefits paid under this chapter and, subject to section 3622(b), shall be paid to an individual for the cost of tutorial assistance received, not to exceed $100 per month, until a maximum of $1,200 is used.";

(2) in subsection (b), by striking out "educational assistance" the second time it appears and inserting in lieu thereof "tutorial assistance allowance"; and

(3) in subsection (c), by striking out "amount of assistance" and inserting in lieu thereof "tutorial assistance allowance".

(23) Section 3241 is amended—

(A) by amending subsection (a) to read as follows:

"(a) The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter."; and

(B) by striking out subsection (c).

(24) Section 3501(a) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'program of education' has the meaning given such term by section 3601(a)(4) of this title except to the extent such meaning would be inconsistent with the express provisions of this chapter."; and

(2) by striking out paragraphs (9), (10), and (11).

(25) Section 3512(f) is amended to read as follows:

"(f)(1) An eligible person (as defined in section 3501(a)(1) (B), (C), or (D) of this title) shall be permitted to use any of such person's unused entitlement for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title as in effect on the date of enactment of the Administration of Veterans Education Benefits Technical Reorganization Act, after the delimiting date otherwise applicable to such person, if such person was pursuing an approved program of education on a full-time basis at the time of the expiration of such person's eligibility.

"(2) Notwithstanding any other provision of this chapter or chapter 36 of this title, an eligible person whose delimiting period is extended under paragraph (1) may continue to use any unused loan entitlement under this paragraph as long as the eligible person continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such eligible person was enrolled at the time of expiration of such eligible person's eligibility (A) until such entitlement is exhausted, or until the expiration of two years after the date of the expiration of the delimiting date otherwise applicable to such eligible person under subsection (b)(2), whichever is later, or (B) until such eligible person has completed the approved program of education in which such eligible person was enrolled at the end of the otherwise applicable delimiting period, whichever is sooner.".

(26) Subchapter III of chapter 35 is repealed, and the table of sections for chapter 35 is amended by striking out the items relating to subchapter III of such chapter.

(27) Section 3532 is amended—

(A) in subsection (c)(3), by striking out "section 3688" in the last sentence and inserting in lieu thereof "section 3653"; and

(B) by striking out subsection (e).

(28) Section 3533 is amended—

(A) in subsection (a)(1)—

(i) by striking out "provided an eligible veteran under section 3491(a)" and inserting in lieu thereof "described in section 3621"; and

(ii) by striking out "prescribed by *in the manner prescribed by*" and all that follows through the period and inserting in lieu thereof "in accordance with section 3532, as determined by the Secretary."; and

(B) in subsection (b), by striking out "section 3492" and inserting in lieu thereof "section 3622".

(29) Section 3534 is amended—

(A) in subsection (a), by striking out "section 3687" and inserting in lieu thereof "section 3662"; and

(B) in subsection (b), by striking out "section 3686 (other than subsection (a)(2))" and inserting in lieu thereof "section 3661".

(30) Section 3535 is amended by striking out "subchapter I of".

(31) Section 3537 is amended to read as follows:

"§ 3537. Work-study allowance

"The Secretary may use, and pay a work-study allowance for, the services of an eligible person pursuant to the requirements, terms, and conditions set out in section 3624.".

(32) Chapter 35 is amended by adding the following new section after section 3537:

"§ 3538. Administration

"The provisions of chapter 36 shall be applicable to the provision of educational assistance under this chapter.".

(B) The table of sections for chapter 35 is amended by inserting after the item relating to section 3537 the following new item:

"3538. Administration.".

(33) Section 3561 is amended by striking out "section 3520" and inserting in lieu thereof "section 3623".

(34) Section 4102A(b)(3)(A) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(35) Section 4103A(c)(2) is amended by striking out "section 3687" and inserting in lieu thereof "section 3662".

(36) Section 4213 is amended by striking out "34,".

(37) Section 5113 is amended—

(A) in subsection (a), by striking out "34,"; and

(B) in subsection (b), by striking out "section 3680(g)" and inserting in lieu thereof "section 3651".

(38) Section 5307(c) is amended by striking out "or that portion" and all that follows through "of this title".

(39) Section 3034 is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c). Section 3032(f)(1) is amended by striking out "section 3034(d)" and inserting in lieu thereof "section 3034(c)".

(40) Section 3532(a)(2) is amended by inserting "in accordance with section 3659" after "paid".

(b) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by striking out "section 1795" and inserting in lieu thereof "section 3655".

(2) Section 2136(b) is amended to read as follows:

"(b)(1) The provisions of chapter 36 of title 38 (other than sections 3686, 3621(a), 3622, and 3625) are applicable to the provision of educational assistance under this chapter.

"(2) The term 'individual', as used in such chapter 36, shall be deemed for purposes of applying those provisions to this chapter, to refer to a person eligible for educational assistance under this chapter.".

(3) Section 2136(c)(1) is amended by striking out "1673(b)" and inserting in lieu thereof "3613(b)".

(c) OTHER PROVISIONS OF LAW.—Any reference to any section or subchapter of chap-

ter 34 or 36 of title 38, United States Code, as in effect on the date before the date of the enactment of this Act, in any law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to be a reference to the comparable provision, if any, that appears in chapter 36 of such title as enacted by this Act.

SEC. 5. TECHNICAL NATURE OF AMENDMENTS.

The status of any veteran with respect to benefits under chapters 30, 32, 34, 35, and 36, United States Code, shall not be affected by the amendments made by, or other provisions of, this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is our last bill. We have passed some mighty good bills here in the last few minutes.

I would like to have the chairman of the Subcommittee on Education, Training and Employment, the gentleman from Minnesota [Mr. PENNY] to explain this technical bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, the purpose of H.R. 5619, which was ordered reported by the full committee on July 23, is to clarify and reorganize the administrative provisions governing veterans' education programs. Because of the expiration of the Vietnam-era GI bill and the implementation of the Montgomery GI bill, a technical reorganization is necessary. This bill would make no substantive changes to existing law, would in no way affect current programs or program participants, and has no cost.

I want to thank the ranking minority member of the Subcommittee on Education, Training, and Employment, CHRIS SMITH, and all members of the subcommittee for their cooperation in developing this legislation. I also want to express my appreciation to the chairman of the full committee, SONNY MONTGOMERY, and to the ranking minority member of the full committee, BOB STUMP, for their leadership and assistance.

I also want to take this opportunity to extend my sincere thanks to Joe Womack of the committee staff and to Dean Gallin of the VA General Counsel's Office for their invaluable assistance in developing this bill. They have been hard at work on this very complicated endeavor for over a year, and I appreciate their efforts.

Passage and enactment of H.R. 5619 would improve implementation and administration of veterans' educational assistance programs, and I urge my colleagues to support this measure.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5619, a bill to reorganize chapter 36 of title 38. This chapter contains administrative provisions relating to veterans' educational programs, and the only changes this legislation would make are technical, not substantive.

While this legislation may not be the most interesting, it is a necessary housekeeping measure, if our laws are to be understandable and well organized.

I commend Mr. PENNY, chairman of the Subcommittee on Education, Training and Employment, and Mr. SMITH, the subcommittee's ranking minority member, for their attention to the form, as well as the substance, of this chapter of the code.

Future users of these provisions, if they knew who to commend, would certainly do so as well. Also, I thank Mr. MONTGOMERY, chairman of the full committee, for his timely action by bringing the bill to the floor as soon as it was ready.

Mr. Speaker, I urge my colleagues to approve H.R. 5619.

Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to thank my colleagues who have the next bill for having to wait. And, Mr. Speaker, I would like to thank you for the excellent job you have done tonight.

Mr. SMITH of New Jersey. Mr. Speaker, I rise with Mr. PENNY to urge the House to approve H.R. 5619.

I want to reassure my colleagues that, despite the size of this bill, its content is limited to purely technical changes in the law governing veterans' education benefits.

Mr. Chairman, over the years, numerous amendments have been passed to chapter 36 of title 38. However, not until today has the Congress undertaken a comprehensive reorganization of the chapter which simplifies and makes necessary corrections in the law. These changes will correct punctuation errors and make the entire document more user-friendly.

Finally, I too, would like to commend the hard work of Joe Womack from the committee and Dean Gallin of the Department of Veterans Affairs General Counsel's Office. Both labored to complete this technical reorganization and deserve our thanks.

Mr. Chairman, I support this reorganization and endorse the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5619, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

A motion to reconsider was laid on the table.

□ 1820

REGARDING LAND CLAIMS OF PUEBLO OF ISLETA INDIAN TRIBE

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1206) to confer jurisdiction on the U.S. Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe, as amended.

The Clerk read as follows:

H.R. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Claims Court to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein which the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Claims Court may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of the enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

The SPEAKER pro tempore (Mr. HUTTO). Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Mexico [Mr. SCHIFF], who serves on the subcommittee which brought forward this bill, we are very careful in the subcommittee that I chair, and on which the gentleman from Pennsylva-

nia [Mr. GEKAS] serves as the ranking minority member. We do have a duty to safeguard the Government purse, but we also have a very important responsibility. Government is not perfect. No set of rules is perfect; no decision making bodies are perfect. We are an appeal body. There are cases when rules that were well designed, and are even, in fact, well executed, work individual injustices in some cases.

I think it is a mark of the strength of our democracy that this Congress carries out the responsibility, entrusting it primarily to the subcommittee we serve on, but ultimately to be ratified by the membership, it entrusts us the responsibility of recognizing, no matter how good we are, there will be exceptions. It is a responsibility which we take very seriously.

From time to time, we believe that there are individual cases of either individuals or groups of people where justice, to be served, requires us to make some exceptions. We believe this is one case for the Puebla of Isleta.

Mr. Speaker, the ranking minority member will now have something to say, and then we will hear from the sponsor, who has done such a good job, the gentleman from New Mexico [Mr. SCHIFF].

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise first for an initial statement in appreciation of the gentleman from Massachusetts [Mr. FRANK] and his adequate coverage of the issue.

Mr. Speaker, it is important, I believe, and it will be substantiated by the other speakers, I know, that what we are about here is not awarding damages or awarding any kind of compensation, but merely allowing a mistake of long tenure to be rectified, and to allow a claim to be heard. That is what we are trying to do here.

Mr. Speaker, for the purpose of elucidating what I have just said, I yield such time as he may consume to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding to me, and I thank the chairman of our subcommittee for his kind remarks. It is a privilege to serve on the subcommittee with both of these gentlemen.

Mr. Speaker, I want to say first that I am rising in support of H.R. 1206. This is a bill which, if it becomes law, does not expressly award any type of damages directly. There is no money out of the Treasury if this bill does in fact become law.

Mr. Speaker, what this bill does do is allow the Puebla of Isleta, which is located in New Mexico, to file a claim under the Indian Claims Commission Act of 1946. In other words, it would waive the present statute of limitations which would bar such a claim.

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Mr. Speaker, I want to say that even though this does not award damages itself, I am normally reluctant to see waivers in statutes of limitation. I think that the Government is entitled to the protection of such acts, along with any individual or corporation in this country, or other entity.

However, I have studied this matter very, very carefully. I have determined that in the period of time in which the Indian Claims Commission Act was passed and in the years during which the statute of limitations was open and available, that a number of Indian tribes and pueblos around the country in fact did not receive proper information about their ability to file under this act for the taking by the Federal Government of aboriginal lands.

As a result of that, I have found that the Congress of the United States previously has granted an exemption to the statute of limitations in several other cases under these exact same circumstances. The circumstances at the time were everything from lack of communication with Indian tribes and pueblos to heavy reliance, on their part, on the Bureau of Indian Affairs for most of their activities, rather than on Indian counsel.

That is the reason why this waiver has been granted by the Congress in the past to other native American groups, and I am seeking for the Puebla of Isleta the same waiver which has been granted by the Congress in other situations.

Mr. Speaker, I urge adoption of H.R. 1206.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN] for further elucidation of the issue.

Mr. SKEEN. Mr. Speaker, I rise today in strong support of H.R. 1206, which would permit the Pueblo of Isleta to file a claim for possession of Aboriginal Lands under the Indian Claims Commission Act of 1951. I am an original cosponsor of this bill, introduced by Republican SCHIFF.

This legislation does not grant the Isleta Pueblo's claim to the lands in dispute. It merely gives the Isleta their day in court. Isleta previously filed a limited claim under the Claims Commission Act, but their claim was not based on aboriginal use or occupancy, as a result of poor advice they received from the Bureau of Indian affairs several years ago. Isleta's claim based on aboriginal use and occupancy has never been heard by a court of law.

The Isleta request is similar to Zuni Pueblo's enactment of special legislation in 1978. In both cases, the Pueblos failed to file aboriginal use claims because of incomplete and erroneous advice from the Bureau of Indian Affairs [BIA]. Given their lack of familiarity with the legal intricacies of this 1951 law, the Isleta followed the BIA's bad advice. This is but one example of the fact that justice is not served when the BIA assumes the role of legal advisor to the tribes, especially when the land claim suit involves the U.S. Government.

In addition to the Zuni case, there is further precedent for this legislation. Legislation authorizing the Wichita Indian Tribe to file with the Indian Claims Commission was passed in 1978, and more recently, Congress passed laws enabling the Cow Creek Indians of Oregon, the Cherokee Nation of Oklahoma, the Sioux Tribes, the Fort Berthold Reservation, the Blackfoot Tribe, and the Gross Ventre Tribe to file claims with the Indian Claims Commission. The Islets surely deserve equal treatment.

H.R. 1206 also contains a provision enabling the court to grant the Isleta interest for lands used. It does not mandate interest payments, but merely give the court jurisdiction to determine payment. It seems to me that if the U.S. Government has confiscated Isleta land, it has violated its fiduciary duty. Interest payments are a fair way to compensate the Pueblo for the use of the land since its confiscation.

Let me stress again that H.R. 1206 does not endorse the claim of the Isleta Pueblo. Rather, it grants the Isleta the chance to present the merits of their case in court and the opportunity to correct a long-standing injustice.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 1206, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OFFICE OF GOVERNMENT ETHICS AMENDMENT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2828) to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics, as amended.

The Clerk read as follows:

H.R. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Amendment of 1992".

SEC. 2. REMOVAL OF THE CAP ON THE AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking "each of the 5 fiscal years thereafter." and inserting "the fiscal year ending September 30, 1990; and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) such sums as may be necessary for each of the 4 fiscal years thereafter.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes the Office of Government Ethics, which, Lord knows, has plenty to do these days.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI] to discuss the bill further.

Mr. KANJORSKI. Mr. Speaker, at a hearing held by the Subcommittee on Human Resources on this bill, the General Accounting Office testified that there is no question that the existing authorization for the Office of Government Ethics does not provide the resources necessary for OGE to effectively discharge its expanded responsibilities.

The General Accounting Office also testified that with additional staffing, the OGE would have a better chance of: effectively conducting the necessary oversight of the more than 300 agency ethics programs it has been charged to review; promulgating regulations addressing the standards of conduct for executive branch employees, and developing regulations for confidential financial disclosure.

Currently, the Office of Government Ethics authorization is capped at $5 million. In fiscal year 1992, however, $6.3 million was appropriated to the Office, $1.3 million over their authorizing level. Removing the existing limitation on the authorization for appropriation will give the Office of Government Ethics the flexibility it needs to adjust to its new responsibilities.

I should note, that as a general rule, I prefer to authorize a specific dollar amount rather than the "such sums as may be necessary" that is contained in the legislation before us today. Nevertheless, because of the rapidly changing demands on the Office, and the fact that this authorization sunsets at the end of fiscal year 1994, I believe that during this limited time of transition, the bill is a reasonable one and should be adopted.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Pennsylvania [Mr. KANJORSKI], in combination with the gentleman from Massachusetts [Mr. FRANK], has adequately described the pertinent points of the issue. It is simply a matter of we mandate. Now let us accommodate that mandate.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2828, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary and the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 1145) to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Amendment of 1991".

SEC. 2. REMOVAL OF THE CAP ON THE AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking "each of the 5 fiscal years thereafter." and inserting "the fiscal year ending September 30, 1990; and "; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) such sums as may be necessary for each of the 4 fiscal years thereafter.".

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MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to strike out all after the enacting clause of the Senate bill, S. 1145, and insert in lieu thereof the provisions of H.R. 2828 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2828) was laid on the table.

CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS OF OKLAHOMA CLAIMS ACT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4209) to amend the act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982, as amended.

The Clerk read as follows:

H.R. 4209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cherokee, Choctaw, and Chickasaw Nations of Oklahoma Claims Act of 1992".

SEC. 2. AUTHORIZATION.

The Act entitled "An Act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma", approved December 23, 1982, (Public Law 97-385) is amended—

(1) in subsection (a)—

(A) by striking "and" the second place it appears;

(B) by striking "jurisdiction is hereby conferred" through "Arkansas River Navigation System", and inserting in lieu thereof the following: "the navigational easement of the United States, and the decisions in United States against Cherokee Nation of Oklahoma, 480 U.S. 700 (1987), and Cherokee Nation of Oklahoma against United States, 937 F2d 1539 (10th Cir. 1991), the Secretary of the Treasury shall pay to such extent and in such amounts as are provided in advance in appropriations Acts, to the Choctaw, Chickasaw, and Cherokee Nations, respectively, such sums as shall be determined in valuation proceedings brought in the United States Claims Court or the United States District Court for the Eastern District of Oklahoma for damages resulting from the use and occupation by the United States of that portion of the bed and banks of the Arkansas River owned by each such respective Nation pursuant to treaties with the United States as confirmed by the decision in Choctaw Nation against Oklahoma, 397 U.S. 620 (1970)";

(C) by striking "Cherokee domain" and inserting in lieu thereof the following: "each such Nation's respective domain";

(D) by striking "consent of said Cherokee Nation" and inserting in lieu thereof the following: "consent of such Nation";

(E) by striking "and also on any claim which the Cherokee Nation of Oklahoma" and inserting in lieu thereof the following: "and also on any claim which each such Nation";

(F) by striking "Cherokee Nation tribal lands" and inserting in lieu thereof the following: such Nation's tribal lands";

(G) by striking "said Cherokee Nation of Oklahoma therefor" and inserting in lieu thereof the following: "such Nation therefor";

(H) by striking "being held by said Cherokee Nation" and inserting in lieu thereof the following: "being held by such Nation";

(I) by striking "said Cherokee Nation in fee simple" and inserting in lieu thereof the following: such Nation in fee simple"; and

(J) by striking the subsection designation; and

(2) by striking subsection (b).

The SPEAKER pro tempore. (Mr. HUTTO). Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, which is an important bill that I believe tries to do justice to people who have not been treated fairly, comes to us because of the very committed advocacy of the gentleman from Oklahoma [Mr. SYNAR], a member of the Committee on the Judiciary and a strong voice for fairness and against arbitrarines.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, first let me thank the gentleman from Massachusetts for this opportunity, and also the gentleman from Pennsylvania [Mr. GEKAS] for working with us on this legislation.

Mr. Speaker, I introduced H.R. 4209 on behalf of the entire Oklahoma congressional delegation and the Cherokee, Chickasaw, and Choctaw tribes. The legislation enables these tribes to go to court to argue that they deserve compensation for the taking of their property. Unlike any other native American tribes, the Cherokees, Choctaws, and Chickasaws have title in fee simple to that portion of the Arkansas River which passes through their lands. Title to the river was granted to the tribes through treaties with the U.S. Government in exchange for the tribes leaving their aboriginal homelands.

Unknowingly, the Federal Government authorized construction of the Kerr-McClellan waterway on the river in the 1940's without compensating the tribes. In 1970 when litigation finally settled the fact that these three tribes were the owners of the Arkansas riverbed and that the project should not have been built without their consent, the Government refused to compensate them for their losses. The losses the tribes incurred include valuable minerals and resources taken from the river as well as the lost opportunity to exploit these resources themselves.

The bill does not appropriate any funds to compensate the tribes. In fact, not one dime can be paid out without the consent of Congress since any monetary damages that might be awarded are subject to congressional appropriations and the pay-as-you-go budget rules. The Congress, and this administration particularly, have worked to strengthen the rights of landowners against Government takings of their property without just compensation. In this context the Cherokee, Choctaw, and Chickasaw tribes are no different.

Accordingly, they should be compensated for the wrongful taking of their property. H.R. 4209 will ensure that happens. I urge my colleagues to support the legislation.

Mr. GEKAS. Mr. Speaker, I yield myself such time a I may consume.

Mr. Speaker, the gentleman from Oklahoma [Mr. SYNAR] demonstrates that there is an abundance of goodwill and intent on the part of Members of Congress and previous Congresses and the administration to accommodates those native American tribes.

Mr. RHODES. Mr. Speaker, I rise today in full support of H.R. 4209.

As with most Indian issues, the historical background of this case is both enlightening and troubling. The Judiciary Committee hearing record on H.R. 4209 provides an exhaustive account of the history of this case. I will not repeat the historical facts here, but suffice it to say that my position on H.R. 4209 was significantly influenced by them.

I believe the following points are worth noting as we consider H.R. 4209:

First, concern has been expressed that passage of H.R. 4209 would somehow set a bad precedent. I disagree. In the 1946 Indian Claims Commission Act, Congress established the precedent for compensating Indian tribes in claims based on fair and honorable dealings. H.R. 4209 is intended to enable the Cherokee, Chickasaw, and Choctaw nations to be treated like other tribes. Every other tribe located along navigable waterways—the Sioux tribes along the Missouri River, for example—has received at least some compensation from the United States for damages to property interests caused by construction of navigational water projects.

Moreover, the claim that passage of H.R. 4209 would set a bad precedent is equally specious in light of the fact that no other tribe in the country acquired title to their land in the manner of the tribes involved here: Title to their lands west of the Mississippi River, including the bed of the Arkansas River, was negotiated by treaty and conveyed in fee patent. Furthermore, precedent exists from as early as 1949 for compensating non-Indian owners of private property for damages resulting from the exercise of the navigational servitude.

Second, this administration has consistently supported the protection of private property rights against the undue exercise of constitutional powers over them. Witness the administration's position in the recent Lucas case in the Supreme Court. Yet here, the Justice Department seeks to interpose a questionable interpretation of the theory of navigational servitude to prevent the tribes from being compensated for damages to the nations' property from the McClellan-Kerr project—damages that would be indisputably compensable if caused by a private party instead of the Federal Government.

Finally, it is significant that the claims authorized by Congress under Public Law 97–385 include claims based on fair and honorable dealings that are not otherwise recognized by any existing rule of law or equity. The fair and honorable dealing cause of action was originally created by Congress in the Indian Claims Commission Act of 1946 and was meant to make the United States accountable in moral, rather than legal, terms for damages to Indian property. The Government's treatment of the nations' property interests in the Arkansas riverbed fall squarely within the class of cases Congress contemplated when it authorized fair and honorable dealing claims under the Indian Claims Commission Act and Public Law 97–385.

Since the early 19th century the United States and the Cherokee, Chickasaw, and Choctaw nations have had a relationship based on treaties, statutes, and fee patent title to the tribes' lands. That relationship and rights vested in the nations thereby formed the basis for the nations' exclusive governmental and proprietary interest on the Arkansas River, including navigation, throughout the 19th century. H.R. 4209 enables the United States to be accountable to the nations under the fair and honorable dealings tenet without undermining the legal doctrine of navigational servitude. H.R. 4209, as amended by the Subcommittee on Administrative Law and Governmental Relations, embodies the proper expression of public policy compelled by conduct of the United States in this matter.

Mr. Speaker, this is not a question of what is legally required of the Federal Government. Rather, it is a question of our moral and equitable obligations to these tribes. The title to the land in question continues to be held in trust for the tribes by the United States. Failure to compensate them for the Federal use of their land is a gross breach of that trust.

With that in mind, I urge all my colleagues to support passage of H.R. 4209.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4209, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHILD SUPPORT RECOVERY ACT OF 1992

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1241) to impose a criminal penalty for flight to avoid payment of arrearages in child support, as amended.

The Clerk read as follows:

H.R. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following:

"CHAPTER 11A—CHILD SUPPORT

"Sec.
"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations.

"(A) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title or imprisonment for not more than 6 months, or both; and

"(2) a fine under this title or imprisonment for not more than 2 years, or both, in any other case.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 of this title in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than one year, or is greater than $5,000; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following:

"11A. Child support ..... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. CRIMINAL CHILD SUPPORT ENFORCEMENT.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States, and local entities in the States to develop, implement, and enforce criminal interstate child support legislation and coordinate criminal interstate child support enforcement efforts.

"(b) USES OF FUNDS.—Funds distributed under this part shall be used to—

"(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

"(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

"(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

"(4) develop a plan to implement such priorities; and

"(5) coordinate criminal interstate child support enforcement efforts.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a local entity shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the local entity is eligible to receive the funds requested.

"(b) DISTRIBUTION TO LOCAL ENTITIES.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to a local entity with an approved application within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

SEC. 1605. DISTRIBUTION OF FUNDS.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the project described in the application submitted under section 1602(a) for the fiscal year for which the project receives assistance under this part.

SEC. 1606. EVALUATION

"(a) IN GENERAL.—(1) Each State and local entity that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or local entity involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local entity may use not more than 5 percent of the funds it receives under this part of develop an evaluation program under this section.

SEC. 1607. DEFINITIONS.

"For purposes of this part, the term 'local entity' means a child support enforcement agency, law enforcement agency, prosecuting attorney, or unit of local government.".

"(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Distribution of funds.
"Sec. 1606. Evaluation.
"Sec. 1607. Definitions.

"PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

"(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1241 is a very significant bill, and it offers my colleagues in this House an opportunity to do something constructive for American families.

The bill is a bipartisan effort, and I want to truly commend the gentleman from Illinois [Mr. HYDE], who really spearheaded the efforts on this bill for the last several years. I think it is testament to his legislative perspicacity that he created this bill and worked so closely to get it passed, and to his own personal fortitude and integrity that he is here this evening to be here for the bill. It is appropriate, I guess, that this is a bill that strengthens families, because families is something I know is important to the gentleman from Illinois, and we do all grieve for him for his recent loss.

The bill would create a simple and straightforward criminal statute that would punish any person who willfully fails to pay a past-due support obligation to a child who resides in another State.

The bill also creates a grant program under which the Bureau of Justice Assistance may make grants to States and local entities to develop and implement this legislation and coordinate criminal interstate child support enforcement efforts.

Mr. Speaker, the need for this legislation is clear. Many of our States have done their best, and they have made willful failure to pay child support a crime punishable in some States by up to 10 years in prison. But the ability of those States to enforce such laws outside their own boundaries is hobbled by a labyrinth of extradition laws and snarls of redtape. As a result, skipping out on child support is one of the easiest crimes to get away with in America today.

At our hearings we heard of instance after instance where spouses, usually husbands, did not want to pay, went to another State, waited just until the legal process was able to catch up with him, and then went to another State and started the procedure all over again. Now this sounds very almost legal, but when you hear the mothers and see in your own mind's eye their children unable to get support, paying lawyers large sums of money, not only the financial wounds they suffer but the psychological wounds are enormous. And that is what this bill is intended to deal with.

Every year more than $5 billion in child support goes unpaid, forcing many families onto public assistance, especially AFDC and Medicaid. And it is unfair to ask the American taxpayers, Mr. Speaker, these people, the taxpayers who work so hard to support their own families, insure their own bills, to carry the burden of a deadbeat parent as well. We must help the States to collect the support these children desperately need by taking the incentive out of moving interstate to avoid payment. After all, simply put, a child's right to support should not end at the State line.

H.R. 1241 has been developed in consultation with the American Commission on Interstate Child Support, and reflects a preliminary recommendation made by the Commission with regard to the adoption of a Federal criminal statute. It enjoys the support of ACES, the Association for Children for Enforcement of Support, which has been an organization that deserves a heck of a lot of credit for moving this legislation. It also has the support of the National Child Support Advocacy Coalition, and millions of custodial parents across this Nation.

These days we talk about family values, Mr. Speaker, and they mean many different things to many people. But I am sure we are all in agreement that part of family values is owning up to your responsibilities as a parent. The millions who do not and who now get away with it will have perhaps the fear of the law, perhaps the fear of God put into their bones by this legislation and thereby we will all increase our support of family values by passing this legislation.

Mr. Speaker, I reserve the balance of my time.

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Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a very special day for me. Few things are more troubling than the misery inflicted on innocent children by parents who cast aside child support obligations. I am especially incensed by those thousands and thousands of delinquent parents who make a mockery of State law by fleeing across State lines to avoid enforcement actions by State courts and child support agencies. I have long felt the need to make such interstate flight a Federal crime—in fact I first introduced a bill along the lines of H.R. 1241 in 1987. Only this year has the legislation finally reached the floor. To that I owe the leadership of two men, both colleagues and friends—CHARLES SCHUMER and JACK BROOKS. Without CHARLIE's active support of the bill as chairman of the House Judiciary Committee's Subcommittee on Crime and Criminal Justice, and without JACK's support as chairman of the full Judiciary Committee, my quest would have remained unfulfilled. I am grateful, and so are, I think I may fairly say, all those custodial parents and children who will benefit from the enactment of H.R. 1241.

Too often as soon as delinquent fathers move to new States, they seem to vanish as far as State enforcement agencies are concerned. It is not that States have no mechanisms available, it is that these mechanisms lose their effectiveness when a father moves to a new State. I know that all States have enacted the Uniform Reciprocal Enforcement of Support Act in one version or another to facilitate interstate enforcement of child support orders. However, a recent study revealed that URESA cases sent by Michigan courts to other States and only a 41-percent change of yielding an order in the other State. URESA is necessary, and many dedicated State employees work tirelessly to make it effective. But URESA is a poor substitute for a State's internal enforcement mechanism.

In a society as mobile as ours, divorced parents will all too frequently live in different States. We are told that within only 3 years of a divorce, there is a 25-percent change of this occurring. However, what is not inevitable is that delinquent fathers can find comfort in the limitations of URESA or that they be allowed to flee from State to State to frustrate State enforcement actions.

I felt that H.R. 1241, proposing Federal criminal penalties for interstate flight to avoid child support payments, was a necessary and proper response. The bill makes it a Federal crime for a parent to willfully fail to pay child support obligations to a child residing in another State. Penalties for a first offense include a fine of up to $5,000 and/or imprisonment of up to six months; for a second or subsequent offense, these figures can increase to $250,000 and 2 years imprisonment.

H.R. 1241's goal is to strengthen, not to supplant, State enforcement efforts. The deterrent value of a relentless FBI, of a Federal penitentiary, should prevent interstate flight in the first place, should keep parents where State courts and agencies can effectively get at them. But make no mistake, when interstate flight does occur, I want to make sure that the Federal Government pursues and if necessary puts behind bars those men warped enough to prefer constant movement to caring for their children.

I urge all my colleagues to vote for H.R. 1241. Let us make America a happier and more secure place for all our children.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a member of the Crime Subcommittee on which I serve with the chairman, the gentleman from New York [Mr. SCHUMER], I rise in support of this bill. Mr. Speaker, before the Crime Subcommittee over the 2 years approximately that I have served on it, we have received numerous requests to federalize various State and local matters into Federal crimes, and I have to say that as a whole, if not entirely before now, I have not supported such requests, because the Federal courts themselves are already stretched near the breaking point with drug cases and other cases now brought under Federal law.

Law enforcement remains primarily the responsibility of State and local government. Nevertheless, I support this bill, because I have come to two conclusions. The first conclusion is the seriousness of the problem.

It is my belief that a leading reason, if not in fact the No. 1 reason, for the increasing number of children slipping into the poverty that is shown on all of the statistics released lately are children in households with single parents not receiving child support. We all know the devastating effects of poverty on these children.

Second of all, I have come to the conclusion that the existing reciprocal support statutes between States are simply bogged down and unable to perform with the efficiency we would like to see. I understand that many dedicated personnel in the State and county and levels attempt to enforce these laws, but they inherently provide too many difficulties.

Therefore, I have come to the conclusion in this one case, at least, federalizing the offense, making willful failure to pay child support while crossing State lines a criminal offense under Federal law, is justified, and I urge all of my colleagues to vote in favor of this bill.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 1241, the Child Support Recovery Act, which will make it a Federal crime to fail to pay child support for a child who lives in another State.

More and more American children under age 18 are growing up with single mothers. According to the Census Bureau, from 1970 to 1988, the number of children living with only 1 parent grew from 11.9 to 25 percent. In spring of 1990, 10 million American mothers had their children under age 21 living with them.

Too many of these single parent families have incomes that do not even reach the poverty level. This means that they are very likely to be dependent on public assistance in order to make ends meet. The responsibility for these families falls on the taxpayers.

In 1989, our Government spent $21 billion for social, health and welfare services for teenage mothers who were unable to support their children alone. Although child support payments can make all the difference in the world, $10 to 20 billion in child support goes uncollected each and every year.

Collecting child support is especially difficult when both parents do not live in the same State. In these cases, less than half of the eligible mothers receive their regular child support payments. This is mostly due to laws and processes that differ from State-to-State. There has to be a national standard.

H.R. 1241 establishes such a standard. It represents a major new commitment on the part of Congress to address the problem of parents who do not live up to their responsibilities to properly care for their children.

H.R. 1241 applies only to child support obligations that are not paid for more than 1 year, or that amount to more than $5,000. It makes the first offense punishable by as many as 6 months in jail, and a $5,000 fine. For a second conviction, the penalty increases to 2 years in prison and a $250,000 fine.

Parents must be responsible for the financial welfare of their children. H.R. 1241 is a big step in this direction. I urge my colleagues on both sides of the aisle to support its passage.

Mr. EWING of Illinois. Mr. Speaker, I rise in strong support of H.R. 1241, Representative HYDE's legislation which would make it a crime for a parent to cross State lines in order to avoid making court-ordered child support payments.

In order to help my colleagues understand the magnitude of this problem, I would like to offer some grim statistics. There are some 10 million women raising children without their father in the household. Nearly one-quarter of all children in America live with only one parent. Only about half of all women who are entitled to receive child support payments are actually receiving their full payments, one-quarter are receiving partial payments, and the remaining quarter are not receiving any of their court-ordered payments.

Failure by parents to make their court-ordered child support payments is a tragedy. It is a tragedy for millions of single parents and the youngsters they raise alone. Indeed, it is a tragedy for our entire country. No child should live in poverty simply because an irresponsible parent has chosen to ignore his moral and legal responsibilities.

I have heard critics of this legislation say that some fathers cannot meet their child support payments because of their own financial problems. This could be true in some cases, but the facts show that most divorced fathers are able to make those payments. On average, court-ordered payments make up 13 percent of a father's income. Furthermore, a study has shown that the rate of nonpayment is about the same whether the parent makes $20,000 or $50,000.

State officials in most cases do an admirable job of trying to track down delinquent parents. However, it becomes extremely difficult for them to pursue nonpayers when they move from State to State. This is why H.R. 1241 is so important. It would make it a Federal crime to travel from State to State to avoid child support payments. A first offense would be punishable by a fine of up to $5,000 and/or imprisonment for up to 6 months. This will certainly provide a strong incentive to delinquent parents to live up to their responsibilities.

This bill will also help relieve some of the financial burdens of State governments. When a parent fails to meet his or her child support payments, many families are forced to depend on State welfare programs. Passage of this legislation will take single-parent families off the welfare roles.

Mr. Speaker, it's about time delinquent parents live up to their duties, it's about time they meet their court-ordered child support payments. We must pass this legislation for all those children and single parents who are living in poverty because of negligent parents who choose to ignore their responsibilities. We must pass this legislation for the future of our children.

Mr. HOYER. Mr. Speaker, I rise today in very strong support of H.R. 1241, a bill which will impose a criminal penalty for flight to avoid paying child support. I would like to thank and commend Mr. HYDE for introducing this important legislation, and the chairmen of the full and subcommittee Mr. BROOKS and Mr. SCHUMER, for expeditiously bringing this legislation to the floor. I am pleased to be cosponsor of this measure.

Mr. Speaker, my staff will tell you that there is no subject which evokes more anger from me than that of the shame of parents who refuse to take financial responsibility for their children. Even more shameful is a parent who will go so far as to leave a State where he or she has been ordered to pay child support in order to avoid payment to the custodial parent.

While I was a practicing attorney, I had a case where a father moved to at least four States, in order to avoid payment of his child support. Because he was a self-employed house painter, he was able to avoid being tracked through work records—he was undoubtedly getting paid in cash. I am pleased to say, that he has subsequently returned to Maryland, where he is now under direct court supervision to pay the support he has neglected to pay for over 6 years.

Clearly, Mr. Speaker, this was a criminal act. There are single parents across this country who must work two jobs, or who are forced to go on welfare because the absent parent refuses to support his or her children. This bill will make it a Federal crime to fail to pay child support when the child resides in another State. The incentive for a noncustodial parent to leave a State in order to avoid support payments will be eliminated. Very frankly, the threat of a 6-month prison sentence and a substantial fine ought make a parent think twice about skirting his or her financial obligations.

As evidence of the importance of this legislation, Governor Clinton said in his acceptance speech that he would like to address the fathers in this country who have abandoned their children by neglecting to pay child support. He said, "Take responsibility for your children or we will force you to do so. Because governments don't raise children; parents do. And you should."

My colleagues, Governor Clinton was absolutely right, and Mr. HYDE is absolutely right. This bill deserves the support of all of my colleagues and I strongly urge its passage.

Mr. HOAGLAND. Mr. Speaker, as the House today considers the Child Support Recovery Act of 1992, I want to commend the

subcommittee chairman, Mr. SCHUMER and Mr. HYDE for their diligent pursuit of means to protect the growing number of American children who live in single-parent homes. Many of these children are tragically hurt because a noncustodial parent's child support payments are in arrears. Financial support from noncustodial parents is essential to helping support children.

The bill before us would make it a Federal crime to fail to pay child support for a child who lives in another State. It will address the problem of interstate enforcement of nonpayment of child support obligations by creating a criminal statute that would punish any person who willfully fails to pay support payments that are a year or longer overdue, or in an amount greater than $5,000.

It has been estimated that as much as $5 billion in support goes uncollected every year, with half of all women getting none or only part of what courts have ordered. Currently, it is very difficult to collect child support when a parent leaves the state of the former spouse. Two legal systems have to be contended with and some delinquent parents actually skip from State to State to avoid their obligations.

In general, I am extremely hesitant to federalize additional crimes. Our Federal court system is overloaded. I generally prefer to leave enforcement of these issues to the States. But I support the Schumer/Hyde effort. The issue of overdue child support payments must be addressed now. It is too important to families that are already torn apart and stretched in many directions to postpone help any longer.

In trying to steer away from adding more Federal crimes to the books, I pursued many suggestions on other ways to provide that help. The Interstate Commission on Child Support, in a preliminary report submitted to Congress, raised some of the same concerns that I share. But I have not been able to craft a solution that would leave the majority of the cases in the States' jurisdiction, and refer only the cases that the States could not resolve to the Federal courts. Most States have already adopted the uniform laws governing many aspects of child support payments—for example, the Uniform Interstate Family Support Act and the Uniform Reciprocal Enforcement of Support Act. But the States do not regularly implement these laws.

So I am afraid H.R. 1241 is a solution much more likely to succeed than the others. The administrative office of the U.S. courts estimates that as few as 500 cases will be filed in Federal district court annually.

Single-parent families, more frequently than not headed by women, need these back payments to make ends meet. I think it is important that we act to make sure that they have the recourse they need. I urge my colleagues to support H.R. 1241.

Mrs. LLOYD. Mr. Speaker, I rise in support of H.R. 1241—to make it a Federal crime to fail to pay child support for 1 year or to accrue a child support debt of $5,000. I am a cosponsor of this bill and a strong proponent of its provisions.

This is a profamily bill to protect America's children. Legally both parents are responsible for the financial support of their children. State laws generally require noncustodial parents to make payments to custodial parents for the support of dependent children once a support order is issued.

It is sad, but true, however, that many noncustodial parents, who are ordered by the courts to provide child support, never make full payments and flee the State to avoid repercussions. These parents, usually fathers, are shirking their moral and financial responsibilities to provide for their children's upbringing. As a result, these children often live in poverty and go without the basic food, clothing, and shelter that loving and caring parents willingly provide.

While parents often turn to the courts for help and assistance, unfortunately, in far too many cases, being awarded child support is not nearly the same as actually receiving child support payments. In fact, in 1990, one-quarter of women awarded child support received no money at all, and another quarter received only partial payment.

To remedy this, H.R. 1241 would make it a Federal crime for a parent or legal guardian to willfully fail to pay child support obligations to a child residing in another State. This bill puts teeth in State garnishment laws. A delinquent parent will be less likely to flee a State, and the children whom so desperately need help, when faced with the prospect of being charged with a felony.

Some may view this bill as harsh. I don't. What I view as harsh is the shameful neglect of children by parents who bring them into this world and then choose not to provide for them by moving from State to State to avoid child support enforcement actions. Nationwide, $5 million in support goes uncollected each year. This is a national disgrace—and children are the ones who suffer. We can no longer turn our back to the cries for help from parents, usually mothers, who are working hard to support their children while the fathers resume their lives elsewhere without concern for their own kids.

Nonpayment of child support should be a crime because children are far too precious a resource to be abandoned without penalty. Studies indicate that it is usually the case that when a family breaks up, the mother and children will not maintain the standard of living that they had when the family was together and that the father achieves after the separation. If court ordered child support was paid in full this should not be the case nearly so often. I urge support of H.R. 1241.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 1241, a bill to impose a criminal penalty for flight to another State to avoid payment of arrearages in child support.

H.R. 1241 is an important and long overdue social statement, namely that intentional flight to avoid financial responsibility under a court-ordered payment of child support will no longer be tolerated, and the Federal Government is making it a criminal offense.

H.R. 1241 is necessary legislation for the many children whose noncustodial parent is delinquent in court-ordered child support payments, and necessary for the taxpayers who end up shouldering the financial responsibility for these children that should be borne by both of their natural parents.

Many of our Nation's poor are children. Many of these children live in single-parent homes usually headed by women in which the father does not provide any financial support. A recent GAO study found that of the 9.9 million child support cases on record in 1990, 2.5 million reported that the noncustodial parent lived in a different State. Of these interstate cases, 34 percent or over 800,000 did not receive child support payments, almost double the amount for situations where both parents reside in the same State.

Something must be done. The current politics of noninvolvement cannot be tolerated any longer. The financial, psychological, and emotional impact on children of being abandoned by a parent is devastating. As a Nation, we cannot stand idly by and convey to these offspring that their Nation is abandoning them as well.

The concerns of millions of women who are single parents and heads of households have been ignored, simply brushed aside for far too long. The effect of this failure to respond to the concerns of these women means also a failure to respond to the needs of their children. This is unconscionable.

H.R. 1241 finally responds to these needs and accomplishes two very important objectives: it subjects a noncustodial parent to criminal sanctions when fleeing to another State to avoid court-ordered child support payments, and it conveys a long-delayed message to women and children that they are not alone in their struggle to obtain court-ordered child support payments from a noncustodial parent who refuses to pay.

Further, I ask that Congress be vigilant in the implementation of H.R. 1241 to see that Federal judges are assiduous in their judgment of the intent of a parent who chooses to move out of State. There is room for doubt here, and our judges should adhere to the benefit of the children involved, so there is no question that we are all serious about solving this shameful problem.

Mr. Speaker, I urge my colleagues to support H.R. 1241, which is not just a women's bill, but it is a children's bill. It is legislation that emphasizes responsibility, obligation, and decency, and deserves our full support.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 1241, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 18, United States Code, to provide penalties for willful refusal to pay child support, and for other purposes.".

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES HUMANITARIAN LEAVE ACT OF 1992

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2675) to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child, as amended.

The Clerk read as follows:

H.R. 2675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Humanitarian Leave Act of 1992".

SEC. 2. AVAILABILITY OF PAID LEAVE TO SERVE AS A BONE-MARROW OR ORGAN DONOR.

(a) IN GENERAL.—Subchapter II of chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"§ 6327. Absence in connection with serving as a bone-marrow or organ donor

"(a) An employee in or under an Executive agency is entitled to leave without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating, for the time necessary to permit such employee to serve as a bone-marrow or organ donor.

"(b) Not to exceed 7 days of leave may be used under this section by an employee in a calendar year.

"(c) The Office of Personnel Management may prescribe regulations for the administration of this section.

"(d) Leave under this section may not be used after September 30, 1994.".

(b) TECHNICAL AMENDMENTS.—(1) Section 6129 of title 5, United States Code, is amended by inserting "6327," after "6326,".

(2) The table of sections for chapter 63 of title 5, United States Code, is amended by adding after the item relating to section 6326 the following:

"6327. Absence in connection with serving as a bone-marrow or organ donor.".

SEC. 3. USE OF SICK LEAVE IN ADOPTING A CHILD.

(a) IN GENERAL.—Section 6307 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c)(1) Sick leave provided by this section may be used for purposes relating to the adoption of a child.

"(2) Sick leave may not be used for purposes relating to the adoption of a child, pursuant to this subsection, after September 30, 1994."; and

(3) in subsection (d) (as so redesignated by paragraph (1)), by inserting "or for purposes relating to the adoption of a child," after "ailment,".

(b) TECHNICAL AMENDMENT.—Section 6129 of title 5, United States Code, is amended by striking "6307 (a) and (c)," and inserting "6307 (a) and (d),".

(c) ELECTION TO HAVE ANNUAL LEAVE RESTORED.—(1) The Office of Personnel Management shall prescribe regulations under which any employee who used or uses annual leave for an adoption-related purpose, after September 30, 1991, and before the date as of which sick leave first becomes available for such purpose as a result of the enactment of this section, may, upon appropriate written application, elect to have such employee's leave accounts adjusted to reflect the amount of annual leave and sick leave, respectively, which would remain had sick leave been used instead of all or any portion of the annual leave actually used, as designated by the employee.

(2) An application under this subsection may not be approved unless it is submitted—

(A) within 1 year after the date of the enactment of this Act or such later date as the Office may prescribe;

(B) in such form and manner as the Office shall require; and

(C) by an individual who is an employee as of the time of application.

(3) For the purpose of this subsection, the term "employee" has the meaning given such term in section 6301(2) of title 5, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2675, the Federal Employees Humanitarian Leave Act of 1992, would allow Federal employees to use sick leave for the purposes of adopting a child. The bill would also authorize 7 days of administrative leave for Federal employees who become either bone-marrow or organ donors.

During fiscal year 1991, 524 employees used approximately 28,000 hours of sick leave for adoption purposes, under an experimental program authorized by Public Law 101-509. This amounts to an average of about 53 hours, or almost 7 days per employee.

Both male and female employees took advantage of the program, with women using about 60 percent of the leave and men using the remainder.

Mr. Speaker, the amendment adopted by the Committee on Post Office and Civil Service would make the sick leave for the adoption program retroactive to October 1, 1991, when the original program expired, and require that both programs authorized by the bill expire on October 1, 1994.

The committee included this sunset date in response to the administration's concern that these programs not be made permanent until the Office of Personnel Management can finish its comprehensive review of all types of leave available to Federal employees.

OPM is scheduled to provide Congress with the results of that review in April of next year.

Mr. Speaker, the Subcommittee on Compensation and Employee Benefits, which Mr. ACKERMAN chairs, has been contacted by many Federal employees who are in the process of adopting children and who would like to make use of this program.

I want to thank my colleagues Mr. ACKERMAN, Mrs. BYRON, Mr. WOLF and Mr. YOUNG of Florida, for their efforts and support of H.R. 2675. I urge my colleagues to support those Federal employees who are making the effort to adopt children or who are donating bone marrow or organs by supporting H.R. 2675.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Chair for the opportunity to make a few observations about H.R. 2675. I would first like to thank the gentleman from New York [Mr. ACKERMAN] chairman of the Subcommittee on Compensation and Employee Benefits, for introducing this bill, the Federal Employees Humanitarian Leave Act. I would also like to recognize the chairman of the Committee on Post Office and Civil Service for moving this important bill so quickly after subcommittee markup.

This bill, Mr. Speaker, would give Federal employees an additional 7 days of sick leave when they qualify as bone marrow donors or organ donors. Donation of bone marrow or an organ is vitally important, not to the donor—the Federal employee—but to the recipient. Provisions in H.R. 2675 granting Federal employees an additional 7 days over and above accrued sick leave for recuperation purposes after such a donation will, undoubtedly, make it easier for employees to make such a donation.

Mr. Speaker, I would like to commend our colleague, the gentleman from Florida, Mr. BILL YOUNG for his extraordinary efforts to register donors in the National Marrow Donor Program and also the more than 50 colleagues and more than 3,000 congressional employees who have taken the required blood test to be listed on this registry.

There are more than 16,000 people awaiting bone marrow transplants. The donation of bone marrow or an organ is kept confidential—neither the donor nor the recipient know the other's identity. However, I would like to recognize that our colleague, the gentleman from Florida, CRAIG JAMES, within the month donated his bone marrow.

Mr. Speaker, additionally, H.R. 2675 provides for the use of sick leave when Federal employees adopt a child; the provision is made retroactive to October 1, 1991. Federal employees are granted sick leave during the birth of a child. It does not seem equitable that biological parents would merit sick leave during the birth of a child and adopting parents would have to use annual leave during the adoption process. Adoption of a child is just as significant and merits the same provisions of

leave. I commend our colleague, the gentleman from Virginia [Mr. WOLF] for his initiative in authorizing a pilot program to implement a Government-wide adoption-sick leave policy.

As a cosponsor of H.R. 2675, I urge all our colleagues to support this humanitarian measure. The administration has no objection to this important bill.

Mr. WOLF. Mr. Speaker, today I rise in support of H.R. 2675, the Federal Employee Humanitarian Leave Act of 1991. As an original cosponsor of H.R. 2675 and as a member representing thousands of Federal employees, I strongly urge my colleagues to support passage of this measure which will help hundreds of Federal employees and their families.

As the ranking member on the House Select Committee on Children, Youth, and Families, I have worked to advance the interests of the American family through promotion of pilot programs and sponsorship of legislation highlighting the need for flexible work policies and other arrangements that make employers and managers more responsive to the changing needs of today's work force. In May 1990, I introduced legislation that would provide for a 1-year pilot program to test the feasibility of granting sick leave for Federal employees wishing to adopt a child. Prior to that, current law allowed only Federal workers who were biological parents to use sick leave for prenatal doctor visits. Federal employees attempting to adopt a child were required to use their annual leave when making the necessary, and often expensive, arrangements with attorneys and social workers as part of the adoption process.

Adoption is a very personal decision for a family, one that is made with reflection on what is best for the family and what is best for the child. The purpose of my legislation was to eliminate the impediment to adoption faced by Federal workers by placing adoptive parents in the Federal work force on an equal footing with biological parents.

Included as an amendment to the fiscal year 1991 Treasury, Postal Service, and general Government appropriations bill, my legislation authorized a 1-year pilot adoption leave program to be implemented Governmentwide and studied by the Office of Personnel Management. The results of OPM's analysis of the adoption leave program in fiscal year 1991 revealed that almost 500 children were adopted by Federal employees from 76 agencies who used nearly 28,000 hours of sick leave. The hours used per employee ranged anywhere from 4 to 502 hours depending on the nature of each individual adoption case.

I was pleased to know the adoption leave program was so well received and utilized by hundreds of Federal employees wanting to start, or add to, their families. Unfortunately, however, many Federal employees participating in the pilot program who were in the process of adopting a child were left suspended when the program expired September 30, 1991.

By being sensitive to the reality of the time required to adopt a child, the Federal Government achieves a win-win situation for itself and its employees. I strongly urge Members of the House to support H.R. 2675, to enable those Federal workers who are currently in the pipeline to adopt, or those interested in adopting, the opportunity to engage in what can be an extremely rewarding endeavor—the adoption of a child.

Aside from improving the quality of life for families of Federal employees, H.R. 2675 also can help save lives by granting sick leave for Federal workers who serve as bone marrow donors. The National Bone Marrow Donor Program is a registry of over 560,000 volunteers who have agreed to serve as marrow donors in the event a compatible match can be found. Bone marrow transplants are a viable cure for fatal blood disorders and cancers including leukemia, aplastic anemia, and severe immunodeficiency. Marrow transplants are used to treat patients whose bodies have ceased producing normal blood cells. By replacing the diseased marrow with new, healthy marrow patient survival rates have increased from less than 15 percent to between 45 percent and 80 percent. The odds of finding a compatible match are about 20,000 to 1, and only 20 percent of the over 10,000 people needing a transplant will find a suitable donor.

By providing an incentive to Federal workers to volunteer to be blood and marrow donors, a tremendous opportunity exists to increase the size and diversity of the donor registry and I commend our colleague, Representative BYRON, for introducing H.R. 658 last year to allow Federal employees to become bone marrow donors. Each day in this country 24 people die who could be saved by a bone marrow transplant. The reason for these deaths is that there is a lack of donors in the various bone marrow registries in the United States and worldwide. Last year, I joined with the Siegfried Foundation and National Marrow Donor Program in sponsoring a testing drive in Arlington, VA, to recruit donors and raise awareness about the need for donors especially in the Washington area where more than 25 residents need transplants.

I believe H.R. 2675 is life enhancing and life saving legislation which demonstrates the Federal Government's commitment to being a responsive and caring employer, one that will strengthen and promote the interests of the American family.

Through my efforts on the Select Committee on Children, Youth, and Families, and as ranking minority member of the Treasury Postal Appropriations Subcommittee, I have worked over the years to promote flexible work policies and innovative work arrangements such as flexitime, job sharing, leave sharing, telecommuting, and child care at Federal facilities. These programs allow the Federal Government to be family-friendly and attract and retain a high quality, high performance work force. By serving as a model to private industry, the Federal Government can, through programs like adoption leave and leave for bone marrow testing, effectively demonstrate the long-term benefits to employers of recognizing the increased demands of work and family on employees.

I would like to express my appreciation to Mr. ACKERMAN, the chairman of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, Mr. MYERS, the ranking minority member and all the members of the committee for their efforts in moving forward with this important legislation.

I urge Members to support passage of H.R. 2675. It is good policy for the Government, it helps those in desperate need of treatment, and it works to strenghten the cornerstone of our Nation—the American family.

Mrs. BYRON. Mr. Speaker, I rise in support of H.R. 2675, the Federal Employees Humanitarian Leave Act of 1991.

I am especially pleased to have been the sponsor of the bone marrow provision introduced as a separate bill but then incorporated into H.R. 2675. Under the legislation, Federal employees would be allowed to use up to 7 days of paid administrative leave per year to serve as potentially qualified bone marrow donors. This time is generally needed for further blood tests and, if found to be a compatible donor, for the marrow extraction procedure itself.

Today, more than 16,000 men, women, and children await bone marrow transplants. Everyday brings new hope, however. Just recently, our colleague, Congressman CRAIG JAMES, served as a bone marrow donor. His willingness to participate in the donor program may bring one of these individuals closer to living a healthy and longer life.

Despite these encouraging glimmers of hope, the challenge is great for finding appropriate transplant matches. The pool of potential donors must be expanded. By providing a donor leave program for its 3.5 million employees, the Federal Government could set an example that would encourage other public and private sector employers and their employees to enroll in the National Bone Marrow Registry Program. The cost to the Federal Government would be minimal, based on my calculations, perhaps less than $13,000 a year.

Increasing the number of registered potential donors is the best hope for many thousands of people battling leukemia, Hodgkin's disease, and a variety of other blood diseases. The Federal Government is in a good position to set a modest humanitarian leave policy that will hopefully save lives. I urge the adoption of this legislation.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 2675, legislation I am an original cosponsor of to allow Federal employees to take up to 7 days of paid leave per calendar year to donate bone marrow.

I want to commend the chairman of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits for bringing this legislation to the House and for holding a hearing last April 1 so that we could present the very compelling case to give Federal employees the time off they need to save a life.

I also want to thank the committee's ranking Republican, my colleague from New York, Mr. GILMAN, my colleague from Maryland, Mrs. MORELLA, and my colleague from Virginia, Mr. MORAN, for their steadfast support of the National Marrow Donor Program and for helping to advance this bill.

As you know, there is much good news to report about the National Marrow Donor Program. More than 650,000 Americans have taken the quick and simple blood test required to be listed in the National Registry. This includes more than 50 of our colleagues in the House and Senate and more than 3,000 congressional employees.

It was with great pride last week I announced that my colleague from Florida, CRAIG JAMES, had become the first Member of Congress to donate bone marrow to an unrelated patient in need of a transplant. I know that CRAIG did not have to worry about taking paid or unpaid leave, vacation time or sick leave to donate his marrow, and I doubt that any of our colleagues would give any staff member a problem about taking whatever time off would be required for them to become a bone marrow donor.

One of my own staff members is in the final workup phase to becoming a donor later this year and she knows that she can have whatever time off is required for the predonation testing and for the actual harvesting of the marrow. There can be no better reason to provide time off than to allow one person to save the life of another.

Mr. Speaker, when we first established the National Registry in 1987, our primary goal was to build a large, ethnically diverse registry of donors to increase the odds of finding matched unrelated donors for the more than 10,000 Americans suffering from leukemia and more than 60 other blood disorders that could be treated and cured with a marrow transplant. With the support of my colleagues in the House, we have made available the Federal support required to administer the program and to recruit more than 650,000 donors on our way to our goal of 1 million.

Early in the Registry's history, we were matching an average of one patient and donor per month for a lifesaving transplant. Today, as many as 50 matches occur per month. In the 4½ years since the Registry was activated, almost 1,400 transplants have been completed here and abroad with donors found in our Registry.

As the number of matched donors increases, we are now faced with many important issues related to the transplantation procedure, and this includes ensuring that donors are able to have the time off required to donate marrow. As our Nation's, and perhaps the world's, single largest employer, the Federal Government can set an important example for other public and private employers by granting leave to marrow donors so they are not required to use their own vacation or sick leave to save the life of another person.

With me during our hearing before the committee last April was Dr. Dennis Confer, the interim medical director for the National Marrow Donor Program and one of our Nation's most respected transplanters, who explained in detail the donation procedure and why it is important that donors undergo the medical tests and procedures required to donate marrow free from the anxiety associated with asking supervisors for time off.

Included in my testimony before the committee were statements from three Federal and postal employees who discussed their experiences in requesting time off to donate marrow. All three expressed their excitement about having the opportunity to save a life. Two had to use vacation or sick leave for the time off required for the procedure. The third, an employee at the Department of Heath and Human Services in the Washington area, recounted the tremendous support she received from her supervisors who granted her administrative leave for whatever time was required for the donation.

Her experience should be shared by all Federal employees who donate marrow. The National Marrow Donor Program is a true national treasure and resource established by this Congress. It is a federally authorized and sponsored program and as such we should do all we can to encourage Federal employees to join the National Registry. The committee's hearing, and the testimony our colleagues received that day, emphasize the need for uniform Federal leave policies and the important role they would play not only in alleviating donor anxiety but also in encouraging more Federal employees to join the Registry.

Mr. Chairman, four States—Minnesota, Oregon, Maine, and Washington—have enacted employee leave laws for State employees who are marrow donors. Fifteen other States have had similar legislation under consideration during legislative sessions this year. In addition, a number of our Nation's largest private corporations, including 3M, BP America, and General Mills, have adopted corporatewide leave policies for employees who are called upon to donate marrow.

By enacting this legislation today, we will establish a uniform leave policy for Federal employees that will become a standard I am confident will be widely accepted and adopted throughout the public and private sectors. The actions we take in Congress and the Federal Government often serve as the models for others. This was certainly the case several years ago when the CHAMPUS Program, and other Federal health insurance programs, agreed to cover the cost of unrelated marrow transplantation. This example was soon followed by a large number of private health insurance companies which agreed to begin covering these costs.

Bone marrow harvesting is carefully scheduled several weeks in advance to assist employees and employers arrange their schedules. At a minimum, a collection date is scheduled 6 weeks in advance and only altered if there is a sudden change in a patient's condition.

The search coordinating unit at the National Marrow Donor Program informs me that there has never been a donor who has declined to donate because of difficulty in getting time off from work. However, there have been cases where it has been inconvenient or has caused a donor to use their vacation or sick leave time. Search coordinators have told me about a school teacher who had difficulty getting time off to donate because a principal did not want to bring in a substitute teacher, about at least half a dozen nurses who had difficulty convincing hospital administrators to rework their work schedules, and about a pharmacist whose supervisor refused to change his schedule.

The committee received for the record a statement from a postal employee in Lynwood, WA, who had to use his sick leave for the time required to donate marrow. Included with his statement were two letters from his postmaster saying, "Thank you for the generosity you have shown in volunteering as a marrow donor. Your willingness to help another person in this way is a tremendous contribution to the community." The postmaster also said, "We are proud of the way in which our postal family reaches out to help those in need in our communities." But in both letters, the postmaster said that unfortunately, the donor must either use vacation time, sick leave, or leave without pay for the time associated with donating marrow.

Mr. Speaker, let us enact this legislation today that truly thanks our Federal employees for the compassion and generosity with which they reach out to give hope and life to another person in need. Those who are willing to donate their marrow should do so free from concern or anxiety about vacation or sick leave or about how their time off will affect their performance rating. Victoria Renneckar, an employee of the Bureau of Alcohol, Tobacco and Firearms in Washington, who testified during the hearing in April about her experience as a bone marrow donor, and the 1,400 other Americans who have donated marrow are true heroes and we should do all that we can to treat them as such.

Their few days off the job mean the difference between life and death for a patient somewhere else in our Nation or the world suffering from leukemia or any one of 60 other fatal blood disorders. I can think of no greater reason to provide time off for our Federal employees.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2675, the Federal Employees Humanitarian Leave Act of 1991. In addition to allowing Federal employees to use paid leave to serve as either a bone marrow or organ donor, H.R. 2675 would continue to provide sick leave to employees trying to adopt children.

Given the difficulty of finding suitable matches for bone marrow and organ transplants, we should not impede the process further by adhering to inflexible leave policies.

This should be true for adoptions as well. As a member of the Treasury-Postal Subcommittee on Appropriations, Congressman FRANK WOLF and I worked with Congressman ACKERMAN to help start the first program allowing Federal employees to use sick leave for purposes of adoption. During the course of this program nearly 524 employees used sick leave to meet with adoption agencies, and appear at court proceedings and other meetings related to the adoption.

Although this was a temporary program designed to test whether it was practical or not, Congressman ACKERMAN's subcommittee hearings clearly showed this program was successful.

I commend my colleague, Congressman ACKERMAN, for all the work he has done to bring this legislation to the floor today. It is not often that we can vote on a bill which, indisputably, saves lives and promotes real family values. H.R. 2675 does both, and I urge its passage.

□ 1850

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House sus-

pend the rules and pass the bill, H.R. 2675, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELEN DAY U.S. POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5479) to designate the facility of the U.S. Postal Service located at 1100 Wythe Street in Alexandria, VA, as the "Helen Day United States Post Office Building."

The Clerk read as follows:

H.R. 5479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, is designated as the "Helen Day United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Helen Day United States Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479, to designate the facility of the U.S. Postal Service at 1100 Wythe Street in Alexandria, VA as the "Helen Day United States Post Office Building."

Mrs. Helen Day served as a community activist in Alexandria, VA, for more than 50 years as well as a teacher in the public school system for the majority of that time. She participated in over 20 community organizations including the Girl Scouts, the Alexandria Community YWCA, and United Way. She also founded the Hopkins House and was secretary of the Council of Social Agencies. Her service to the people of Alexandria is unparalleled. It is truly fitting to name the 1100 Wythe Street post office after Mrs. Day.

Mr. Speaker, I would note that the sponsor of this legislation is the gentleman from Virginia [Mr. MORAN].

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479 designating the postal facility on Wythe Street in Alexandria, VA, as the "Helen Day Post Office."

Mrs. Day was well known in Alexandria as a teacher in the public school system and a community activist. She was actively involved with the Girl Scouts, Council of Social Agencies, the Alexandria Community YWCA, and numerous other civic organizations.

I commend our colleague, the gentleman from Virginia [Mr. MORAN], for his thoughtful remembrance of this active woman with whom he worked for many years.

I urge my colleagues to support H.R. 5479.

Mr. MCCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, Helen Day taught in the Alexandria school system from 1925 to 1971. For 40 years that school system was completely segregated. She was one of the leaders of the integration of the Alexandria school system through the human relations council.

She also was one of the founding members of the Hopkins House Settlement House in Alexandria, which was one of the few refuges for minorities who at that time, in 1939, when it was started, were clearly treated as second-class citizens.

Through the Hopkins House, Helen founded the first black Girl Scout troops in Alexandria. She had been integrally involved in youth activities throughout her life.

Mr. Speaker, she recently passed away this year, but she left her mark on Alexandria. It would be a fitting tribute to her, a memorial to her, to have the post office in the neighborhood that she contributed so much to, whose character both physically and spiritually she shaped through her lifelong commitment.

I thank the chairman for yielding time and certainly strongly support this bill to name the post office facility at 1100 Wythe Street after Helen L. Day.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5479.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CLIFTON MERRIMAN POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5453) to designate the Central Square facility of the U.S. Postal Service in Cambridge, MA, as the "Clifton Merriman Post Office Building."

The Clerk read as follows:

H.R. 5453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Central Square facility of the United States Postal Service located at 770 Massachusetts Avenue in Cambridge, Massachusetts, shall be known and designated as the "Clifton Merriman Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Clifton Merriman Post Office Building".

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5453 to designate the facility of the U.S. Postal Service located at Central Square in Cambridge, MA, as the "Clifton Merriman Post Office."

Clifton Merriman honorably served both the U.S. Postal Service and the U.S. Army. Mr. Merriman began his employment with the Postal Service in 1919 in Cambridge, MA, where he worked for more than 40 years. Mr. Merriman became the first African American to be appointed to a higher management position within the Boston Postal Division. In addition to his dedication to the Postal Service, Clifton Merriman was one of the most highly decorated African-American soldiers in World War I.

Mr. Speaker, I note that this legislation is sponsored by the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5453, designating the post office in Cambridge, MA as the "Clifton Merriman Post Office Building."

After serving our Nation with distinction in World War I, Mr. Merriman began his career as a postal employee in 1919.

I commend the gentleman from Massachusetts [Mr. KENNEDY] for introducing this bill honoring Mr. Merriman and I urge my colleagues to support H.R. 5453.

Mr. MCCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, let me say to the gentleman from Indiana [Mr. MCCLOSKEY] and the gentlewoman from Maryland [Mrs. MORELLA], that the gentlewoman from the great State of Maryland used to reside very close to where the Cambridge Post Office sits today and is indeed a friend of the Eighth Congressional District, a

former resident. I am delighted to say that I still have the honor of representing her mother. I am not so sure I ever get her vote, but nevertheless, I do appreciate the fact that I have the privilege of serving her.

Mr. Speaker, I would like to take this opportunity to thank my good friend, the gentleman from Indiana [Mr. MCCLOSKEY], chairman of the Subcommittee on Postal Operations and Services of the Committee on Post Office and Civil Service for bringing this bill to the floor today.

The gentleman from Indiana [Mr. MCCLOSKEY) and his staff have been very kind in the way that they have handled this particular issue, and I know that the gentleman from Indiana [Mr. MCCLOSKEY) is very familiar with the Cambridge Post Office, as he came up to have a hearing on some of the Post Office issues pertaining to the way the Office was run earlier this year, and he has done yeoman work in getting some of those issues straightened out; so I very much want to thank the gentleman from Indiana for his efforts.

This bill is very simple and straightforward. It names the U.S. Post Office at Central Square in Cambridge MA, located in my district, after the late Clifton Merriman—a distinguished citizen, and a highly decorated veteran.

Mr. Merriman worked for over 40 years with the Postal Service—beginning in 1919. He was the first African-American to be appointed to a senior management position within the Boston Postal District. His accomplishments in the post office, and his longstanding commitment to his church and the civic affairs of the Cambridge community were a great source of pride for his friends, family, and neighbors.

Fueling that pride was the additional knowledge that Clifton Merriman was also one of the most highly decorated black soldiers of World War I. As a sergeant in the American Expeditionary Force, Mr. Merrimans' bravery on the battlefields of France earned him the Distinguished Service Cross, and two medals from the French Government.

Mr. Speaker, during his lifetime, Mr. Merriman served his community well as a model employee, distinguished veteran, and an outstanding role model. His contribution to the Postal Service and the community of Cambridge will be long remembered by dedicating the U.S. Post Office at Central Square in Cambridge in his name. It is appropriate that we pass this bill today in honor of a fine American, Clifton Merriman.

□ 1900

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to thank the gentleman from Virginia [Mr. MORAN], for his kind remembrance of Helen L. Day and commemorating the post office facility, and the gentleman from Massachusetts [Mr. KENNEDY] for his support of the designation of the building, the Clifton Merriman Post Office Building.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5453.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Massachusetts.

After consultation with my General Counsel I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am

Sincerely yours,
DONALD K. ANDERSON
Clerk,
House of Representatives.

COMMUNICATION FROM CHAIRMAN OF THE SUBCOMMITTEE ON EMPLOYMENT AND HOUSING OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Subcommittee on Employment and Housing of the Committee on Government operations:

EMPLOYMENT AND HOUSING
SUBCOMMITTEE,
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, the Capitol.

DEAR MR. SPEAKER:This is to notify you pursuant to Rule (950) of the Rules of the House that the Subcommittee on Employment and Housing of the Committee on Government Operations has been served with a subpoena for documents relating to the Subcommittee's investigation of the U.S. Department of Housing and Urban Development, issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk. I will make the determinations required by the Rule.

Sincerely,
TOM LANTOS,
Chairman.

COMMUNICATION FROM THE CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Permanent Select Committee on Intelligence:

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
Washington, DC, August 4, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On July 24, 1992, I notified you, pursuant to Rule L of the Rules of the House, that the Permanent Select Committee on Intelligence had been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk of the House it has been determined that compliance with this subpoena would be consistent with the privileges and precedents of the House.

I also want to notify you pursuant to Rule L that the Committee has been served with an additional subpoena by the United States District Court for the District of Columbia in connection with the same trial which produced the subpoena about which I notified you on July 24. After further consultation with General Counsel to the Clerk, I will notify you of my determination on the additional subpoena as required by the Rule.

Sincerely,
DAVE MCCURDY,
Chairman.

LARKIN I. SMITH GENERAL MAIL FACILITY AND LARKIN I. SMITH POST OFFICE

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4539) to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the "Larkin I. Smith General Mail Facility" and the building of the U.S. Postal Service in Poplarville, MS, as the "Larkin I. Smith Post Office Building," as amended.

The Clerk read as follows:

H.R. 4539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATIONS.

(a) GULFPORT FACILITY.—The general mail facility of the United States Postal Service located at 1110 Highway 49 in Gulfport, Mississippi, shall be known and designated as the "Larkin I. Smith General Mail Facility".

(b) POPLARVILLE FACILITY.—The building of the United States Postal Service located at 301 South Main Street in Poplarville, Mississippi, shall be known and designated as the "Larkin I. Smith Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to—

(1) the facility referred to in section 1(a) shall be deemed to be a reference to the Larkin I. Smith General Mail Facility; and

(2) the building referred to in section 1(b) shall be deemed to be a reference to the Larkin I. Smith Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4539 as amended, to designate the general mail facility of the U.S. Postal Service in Gulfport, MS as the "Larkin I. Smith General Mail Facility" and the U.S. Postal Service building in Poplarville, MS, as the "Larkin I. Smith Post Office Building."

Larkin Smith served as a distinguished Member of the U.S. House of Representatives during the 101st Congress before his untimely death. Prior to his election to Congress, Mr. Smith was the deputy sheriff in the Pearl River County Sheriff's Department in Poplarville and was later appointed chief of police of Gulfport. Larkin Smith's devotion to public service was longstanding and both Gulfport and Poplarville, MS consider Larkin Smith as a member of their community. It is fitting that the general mail facility in Gulfport and the Poplarville post office be named in his honor.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4539, a bill to remember our late colleague, the gentleman from Mississippi, Larkin Smith, by naming the general mail facility of the U.S. Postal Service in Gulfport, MS, and the postal facility in Poplarville after him.

It is to the credit of our colleague from Mississippi, Mr. TAYLOR, for giving us the opportunity to memorialize our beloved former colleague, Congressman Larkin Smith.

I urge my colleagues to support H.R. 4539.

Mr. Speaker, it is to the credit of our colleague, the gentleman from Mississippi [Mr. TAYLOR], that he has given us the opportunity to memorialize our beloved former colleague who served such a short time and died in such an untimely manner, the gentleman from Mississippi, Larkin Smith.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, Larkin Smith began his career of public service at a very young age as a deputy sheriff in Pearl River County. After a few years of his excellent work, his talents were recognized in Harrison County and he became a deputy sheriff in Harrison County, MS.

After only a very short period as a deputy sheriff, again his talents were recognized and he was chosen as chief of police for Gulfport, MS.

A few years later, while still in his early thirties, Larkin Smith was elected as the first Republican sheriff of Harrison County, MS. Four years later he was reelected by a rather large margin.

One year later he was chosen from a field of 12 candidates as congressman from the Fifth Congressional District.

Larkin's life is the epitome of a person who has brought himself up by his bootstraps. At a very young age, as a teenager, his only brother, who was paralyzed from the neck down, Larkin took it upon himself not only to take care of his parents but his brother as well.

He served as a model for our young people that when something tough gets in your way, you find a way over it or find a way around it, but you continue to make the most of your abilities and you do not give any reason to keep you from accomplishing your goal.

Larkin's goal was to serve in the U.S. Congress. Three years ago this month, after visiting a Little League world series game in Hattiesburg, MS, on his way home, Larkin's two-seat plane crashed into the DeSoto National Forest, ending a short but brilliant career in the U.S. Congress.

We seek today to honor him in his home town of Poplarville, MS, and also in his adopted town of Gulfport, MS.

I would like to thank my colleagues, the entire Mississippi delegation, for cosponsoring this measure, as well as 29 other Members of the House of Representatives.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4539, the bill to designate a post office in Poplarville, MS, as the Larkin I. Smith Post Office, and a mail facility in Gulfport, MS, as the Larkin I. Smith General Mail Facility.

I want to thank our colleague from Mississippi, GENE TAYLOR, for introducing the bill and the gentleman from Indiana [Mr. MCCLOSKEY] for bringing it to the floor, along with the ranking minority member, Mr. HORTON.

Larkin Smith came to Congress in 1989 with a background in law enforcement. He first was a deputy sheriff in his hometown of Poplarville with the Pearl River County Sheriff's Department. He then became chief of police in Gulfport and later was elected sheriff of Harrison County.

He served only a short time in Congress, but he quickly established the fact that he had some strong ideas on how to fight the war on drugs and on how to improve the criminal justice system. He won a seat on the Judiciary Committee and impressed Republicans and Democrats alike with his grasp of the issues, and with his wonderful personality.

He was a very popular figure on the Mississippi gulf coast and was already becoming a leader here in Congress on law and order issues.

Larkin Smith was truly a rising star. We miss him in Mississippi and in this Chamber. I am proud to join in this tribute to our friend. I know Members on both sides of the aisle will join in supporting this legislation.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 4539, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the 'Larkin I. Smith General Mail Facility' and the building of the U.S. Postal Service in Poplarville, MS, as the 'Larkin I. Smith Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

□ 1910

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 2675, H.R. 5479, H.R. 5453, and H.R. 4539.

The SPEAKER pro tempore (Mr. HUTTO). Is there objection to the request of the gentleman from Indiana?

There was no objection.

FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT OF 1991

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2407) entitled the "Farm Animal and Research Facilities Protection Act of 1991," as amended.

The Clerk read as follows:

H.R. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Enterprise Protection Act of 1992".

SEC. 2. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 42 the following:

"§ 43. Animal enterprise terrorism

"(a) OFFENSE.—Whoever—

"(1) travels in interstate or foreign commerce, or uses of causes to be used the mail

or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise; and

"(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding $10,000 to that enterprise, or conspires to do so;

shall be fined under this title or imprisoned not more than one year, or both.

"(b) AGGRAVATED OFFENSE.—

"(1) SERIOUS BODILY INJURY.—Whowever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

"(c) RESTITUTION.—An order of restitution under section 3663 of this title with respect to a violation of this section may also include restitution

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

(2) the loss of food production or farm income reasonably attributable to the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

"(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'physical disruption' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

"(3) the term 'economic damage' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

"(4) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.

"(e) NON-PREEMPTION.—Nothing in this section preempts any State law.".

(b) CLERICAL AMENDMENT.—The item relating to section 43 in table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Animal enterprise terrorism.".

SEC. 3. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES.

(a) STUDY.—The Attorney General and the Secretary of Agriculture shall jointly conduct a study on the extent and effects of domestic and international terrorism on enterprises using animals for food for fiber production, agriculture, research, or testing.

(b) SUBMISSION OF STUDY.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Agriculture shall submit a report that describes the results of the study conducted under subsection (a) together with any appropriate recommendations and legislation to the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume, and I do rise in support of H.R. 2407, as amended.

Mr. Speaker, the introduced version of this legislation has been cosponsored by more than 360 of our colleagues.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. STENHOLM], the chairman of the subcommittee that worked on this legislation.

Mr. STENHOLM. Mr. Speaker, I am pleased that the House is today taking up the Animal Enterprise Protection Act of 1992, legislation that I introduced last year that now has 264 cosponsors.

This bill is the result of months of negotiations with all those interested in this issue.

We have worked in good faith with representatives of the animal welfare community, and with those concerned about protecting legitimate undercover activities.

We have recently worked with the Judiciary Committee to resolve the differences between the version of the bill reported by that committee and the version reported by the Agriculture Committee.

As a result of these negotiations, I believe we have a better bill, superior to the introduced bill.

I join Chairman DE LA GARZA in thanking Chairman BROOKS and Mr. SCHUMER for working with us to produce a bill that is better for the effort.

H.R. 2407 is designed to foster and promote food production and animal research by protecting animals and animal enterprises from acts of violence and destruction.

This bill is intended to penalize terrorist activity, violent activity, directed, against biomedical researchers, farmers and ranchers, meat packers and processors, livestock auctions, and others who handle animals.

These intimidating and destructive acts are escalating both in number each year and in their level of violence.

Such actions not only threaten existing food production and research, and impede advances, they have created a growing atmosphere of fear among farmers and researchers, people to whom the Nation owes so much.

Those who choose to disrupt lawful agricultural and scientific research activities through violent means should face legal actions that are commensurate with their actions.

The true victims of the illegal acts of terrorism are not only agricultural and biomedical research, but all members of society.

The ultimate cost is levied against those who enjoy an abundant and nutritious food supply or wait for better treatments or preventive measures for disease and disability—those whose very lives may be at stake.

Federal protection of animal facilities is essential.

Crimes against agricultural and research facilities are both interstate and international in scope.

Since 1988, 25 States have enacted laws increasing the penalties for crimes against research and agricultural facilities; however, State and local law enforcement agencies are not equipped to conduct interstate or international investigations.

The States alone cannot solve the problem; we must call on the resources of the Federal Government to address these criminal activities.

Mr. Speaker, I want to make very clear to my colleagues that H.R. 2407 will penalize only violent behavior.

It will provide penalties for anyone causing damage greater in value than $10,000 to an animal enterprise.

The animal enterprises covered by this bill include: commercial and academic enterprises that use animals for food or fiber production, agriculture, research, or testing; zoos, aquariums, circuses, rodeos, and lawful competitive animal events; and fairs or similar events intended to advance agricultural arts and sciences.

The bill provides three levels of penalties. If there is damage exceeding $10,000, the punishment can be a 1-year jail sentence. If someone is hurt during an attack on an animal enterprise, the punishment can be a 10-year jail sentence. If someone is killed during an attack on an animal enterprise, the punishment can be as high as a lifetime jail sentence.

And in most instances, given the current sentencing guidelines, someone convicted under this legislation will be required to provide restitution to the animal enterprise for the reasonable cost of repeating any experimentation and the loss of food production or farm income.

Mr. Speaker, this legislation, as modified to address the concerns of all interested in this issue, maintains my commitment to all 264 cosponsors to stop the devastating and intimidating acts of violence against animal enterprises.

I urge all of my colleagues to vote for this vital legislation to protect the property, work, and lives of those who work with animals.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2407, and I am not quite as optimistic as the gentleman from Texas [Mr. STENHOLM] is as to whether this is a stronger or weaker bill than what passed out of the House committee, but I do support it. I happen to think that it has been somewhat diluted, but I un-

derstand, in order to get something passed here, one has to compromise, and the fact is this is the result of a compromise, and the fingerprints of another committee are on this bill, and I understand what it takes to pass this legislation because I think it is important that we pass it.

Mr. Speaker, farmers' research facilities are being accosted these days by some people who are extremists, and we have got to draw the line and detail what in fact is a crime, and what is not a crime, and what the circumstances are.

So, Mr. Speaker, I rise in support of this legislation, and I would also note that the National Association for Biomedical Research has a letter in support of this legislation, the National Cattlemen have signed off on this version of the bill, and the administration does support this bill, in fact, affirmatively.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume, and I do so to thank the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and all the members of the Committee on the Judiciary, and I have a communication from the gentleman from Texas that I include for the RECORD at this point.

Mr. Speaker, the text of the letter is as follows:

COMMITTEE ON THE JUDICIARY,
Washington, DC, July 30, 1992.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the bill H.R. 2407, the Farm Animal and Research Facilities Protection Act of 1991. I am pleased to have been able to reach an agreement with you on this legislation, and would have no objections to your calling it up on the Suspension Calendar.

The compromise we have reached will amend title 18, the criminal law section of the U.S. Code. Title 18 surely is the proper place for this matter, and I appreciate your concurrence in this.

I want to reassure you that we will continue to monitor the problems which gave rise to this legislation and to work in a cooperative manner with your Committee. Your Committee has done an excellent job in building a record upon which our two Committees could base this final compromise.

While the criminal law falls within the jurisdiction of the Committee on the Judiciary pursuant to Rule X, I wish to assure you that the Committee on Judiciary acknowledges the jurisdictional interest of the Committee on Agriculture in this legislation and any future legislation affecting farm animals and research facilities. I appreciate your willingness to work with this Committee in reaching this fair result.

With every good wish, I am

Sincerely,

JACK BROOKS,
Chairman.

Mr. Speaker, I am pleased to rise in support of H.R. 2407, as amended, the Animal Enterprise Protection Act of 1992. The introduced version of this legislation has been cosponsored by more than 260 of our colleagues.

H.R. 2407, as amended, makes it a Federal offense to commit a violent act against any research, agricultural, or exhibition facility housing animals that results in economic or research losses totalling $10,000 or more. The bill requires restitution for damages, stiff fines, and/or imprisonment in the case of criminal conviction.

The goal of this bill is simple: to impose stiff Federal penalties that will deter radical animal rights extremists from committing these violent and terrorist acts against innocent researchers, farmers, and others who use animals for legitimate research, food production or exhibition activities.

It is unfortunate that this bill is even necessary. However, it has become all too clear in recent years that current Federal and State laws are not discouraging acts of violence and vandalism against researchers, exhibition facilities, farmers, and the livestock and meat industries. Over the past decade there have been more than 100 violent terrorist acts reported against various types of animal facilities.

Scientists should not have to conduct legitimate research to improve human health and animal productivity behind security gates—research that may very well lead to life-saving medical breakthroughs.

Farmers and ranchers should not have to live in fear that their property will be vandalized. Legitimate entertainment and educational facilities should not have to worry that events will be subject to violent sabotage.

The bill we bring to the House floor today represents a carefully crafted compromise. We have sought to address legitimate concerns raised by animal welfare organizations. We have worked openly and cooperatively with our colleagues on the House Judiciary Committee, which received a sequential referral of the bill.

I would like to thank the distinguished chairman of the Committee on the Judiciary, Mr. BROOKS, as well as the chairman of the Subcommittee on Crime and Criminal Justice, Mr. SCHUMER, and their staff for their cooperation and willingness to work with us in drafting acceptable language to address their areas of concern and interest. By working together, we have produced a bill that achieves the original goals of the cosponsors in a manner consistent with the scope of the U.S. Criminal Code.

Mr. Speaker, I also want to commend the gentleman from Texas [Mr. STENHOLM] for his leadership on this issue. As chairman of the House Agriculture Subcommittee on Livestock, Dairy and Poultry, Mr. STENHOLM has helped focus public attention on the problem of terrorist acts against animal facilities for several years now.

As sponsor of the core bill in both the 101st and 102d Congresses, Mr. STENHOLM has worked hard for the passage of this legislation. I commend the gentleman for his leadership in crafting this compromise bill which meets the concerns of those of us who cosponsored the original legislation and the concerns of others interested in this issue.

Mr. Speaker, this bill will provide working men and women who raise or use animals for the benefit of all Americans with an appropriate level of legal protection against terrorist-type groups. I urge my colleagues to support H.R. 2407.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime and Criminal Justice, and I wish to thank him and the staff for their cooperation in this effort.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Texas [Mr. DE LA GARZA], and first I thank the distinguished chairman of the Committee on Agriculture and the chairman of the subcommittee, the gentleman from Texas [Mr. STENHOLM], for their understanding and working with us so that we could come up with a compromise bill. I also would note that the letter from the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, which Chairman DE LA GARZA has graciously included for the RECORD, will simply signify, aside from the chairman's support, that this new offense will be codified in title 18, not title 14, which the original bill provided. There have been discussions between the two committees, the Committee on Agriculture and the Committee on the Judiciary, about the jurisdictional implications of this change, Mr. Speaker, and that is why we have placed the letter in the RECORD.

Mr. Speaker, I am in support of this bill. The bill has certainly primarily been a product of the Committee on Agriculture, but we in the Committee on the Judiciary have had the opportunity to review it on a sequential referral. The Committee on the Judiciary reported the bill out with a number of important changes from the Committee on Agriculture's version. Many, though not all, of these changes have been incorporated into the manager's amendment that is now before the House, and I believe that this amendment reflects the view of the Committee on the Judiciary that this new criminal provision should be tough, but it should be faily drafted, it should not just reach out everywhere, and that is why I am supporting the bill.

The core problem addressed by H.R. 2407 is that of violent attacks by extremist groups. As modified by the manager's amendment, the bill is now focused specifically on these attacks.

I might add, Mr. Speaker, as we had our discussions in the Committee on the Judiciary, no one objected to a placing as a Federal crime these types of attacks.

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The trouble was legislation as drafted originally went way beyond that and might extend to a fight between two scientists in an animal laboratory, et cetera, and that is why we felt the need to add changes to the bill. Only actual disruptions of enterprises that use animals will be covered. That is opposed to the original draft of the bill, which would have made it a Federal

crime to copy documents without authorization, or just be present on the premise, an animal enterprise without permission. Trespass would be a crime under this.

Most important, the manager's amendment restricts the scope of the bill to serious offenses. Trivial incidents, like schoolchildren playing a prank or a lab worker stealing test tubes, will be left where they should, to the State and local systems. This avoids an unnecessary extension of Federal jurisdiction and ensures that scarce Federal law enforcement resources will not be wasted.

On the other hand, I want to note that the gentleman from Texas [Mr. STENHOLM] and the gentleman from Texas [Mr. DE LA GARZA] have pointed out a very real problem, a problem that is not just a mirage, a problem that indeed would warrant Federal intervention, and the core of the bill indeed that they drafted I believe remains and in my opinion is just as strong as it was when it came out of the committee. In other words, the focus is narrower, but just as tough on the area of true focus.

A number of Members' offices have been calling my office to ask why the compromise bill does not say anything about whistleblower protection. The answer is that it does not need to protect whistleblowers explicitly, because legitimate whistleblowing activity cannot possibly be criminalized by this bill.

The whistleblower exemption was tacked onto the original bill, H.R. 2407, but under this new narrowly drafted bill, there is no need for whistleblower protection and the bill accomplishes that objective.

I note that the humane societies, labor unions, and other organizations that rely on whistleblowers share this opinion.

Mr. Speaker, in conclusion I would like to congratulate our chairman, the gentleman from Texas [Mr. DE LA GARZA], and the primary sponsor of H.R. 2407, the gentleman from Texas [Mr. STENHOLM], on the success of their bill, and thank them sincerely on behalf of myself and the gentleman from Texas [Mr. BROOKS], for their spirit of cooperation in accommodating the concerns of the Committee on the Judiciary.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consumer to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of the compromise version of H.R. 2407 that is being offered today under the suspension of rules. While I would have preferred that we were considering the legislation that came out of the House Agriculture Committee, it is my hope that the final passage of H.R. 2407 in this form will send a message to those within the animal rights community that refuse to work within the system to protect animal welfare, that their radical actions will be treated with the seriousness they deserve.

I joined my colleague, CHARLIE STENHOLM, as an original sponsor of this legislation during both the 101st and the 102d Congresses because I believe that agricultural producers and their support industries as well as scientific researchers deserve to be protected from illegal, terrorist-like attacks by so-called animal rights activists. This legislation would make it a Federal crime to cause damage or loss of property in excess of $10,000 to a wide range of enterprises including production agriculture, research facilities, zoos, rodeos, fairs or expositions and any other event associated with animal or livestock.

Mr. Speaker, I and the other Members in this body who represent agricultural interests do not tolerate instances of abuse or cruelty to livestock used for any purpose and will continue to work with the agricultural community to educate producers and the mainstream animal welfare groups to draw attention to problems when necessary. However, I have little tolerance for those who resort to the extreme of blowing up or destroying research facilities and the years of research involved in many of the documented instances. The same goes for those individuals who find it necessary to heckle and intimidate youngsters involved in 4–H livestock programs.

Again, I am pleased that the House is finally taking action on this important piece of legislation and am hopeful that this compromise bill will have the broad support of the House. While this legislation may not put a stop to all of the outrageous, destructive acts carried out in the name of animal liberation, it is a step in the right direction toward doing something about the cases that can be solved.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I too want to join in the feeling of good will that has surrounded the compromise measure that is now before us on this very important issue. The gentleman from Texas [Mr. STENHOLM] and many others who are originators of the push to come to this point have consulted with others and have consolidated their thinking, and we are in very good shape. We should all feel very good about it.

Mr. Speaker, the important thing to remember in this is that we strike with this legislation that perfect balance between recognizing that animal rights groups have the right to picket, have the right to write and demonstrate and bring their pet projects, not meaning to use that word, to the fore, but in the meantime we must protect against the violence that some extremists and animal rights groups have been evidencing across the landscape for too long.

Mr. CHANDLER. Mr. Speaker, I strongly support H.R. 2407, the Farm Animal and Research Facilities Protection Act.

Farmers, breeders, and researchers must be protected from the criminal activities of animals rights extremists. Property rights, farm facilities and valuable medical research are jeopardized by these attacks.

More than 100 cases of animal and environmental extremist violence have been documented in the last 10 years. These attacks cost nearly $100 million of damage to farms, ranches, rodeos, circuses, zoos, pet breeders, fur farmers, and biomedical laboratories.

Unfortunately, the Pacific Northwest has not been spared from this violence. In 1991, animal rights extremists attacked an Oregon State University research facility. They burned a building destroyed records and issued death threats against researchers. Five days later, the same group claimed credit for burning a feed storage facility in Edmonds, WA.

These two attacks resulted in $1 million in damages. In both cases, the arsonists issued a news release. They even left videotapes of their attack on the University for local television and radio stations. And these terrorists promised to attack again.

We must establish an adequate deterrent to put an end to these assaults. The Farm Animal and Research Facilities Protection Act is that deterrent. The act would provide Federal protection, resources and expertise to investigate and arrest radical activists who use violence to further their cause.

I have always advocated the Humane treatment of animals. However, terrorists have no place in American society: They belong in jail. This bill is a necessary step in that direction. We must put an end to the criminal and violent attacks of extremists.

Mr. Speaker, I strongly urge my colleagues to support the Farm Animal and Research Facilities Protection Act.

Mr. GUNDERSON. I rise in support of H.R. 2407, a bill designed to send a clear message to subversive groups that terrorism aimed at animal enterprises will not be tolerated.

The legislation before us today represents 3 years of work. I want to compliment the members of the Agriculture and Judiciary Committees for their diligent work in fashioning this compromise.

Groups that damage or steal property are not truly concerned about the welfare of animals. They are interested in disrupting the activities at the facility, be it a farm or ranch, rodeo, or university research laboratory, in an attempt to frighten people into quitting. More than 100 violent acts have occurred in the last 10 years against farmers and researchers, acts that are escalating both in number and their level of violence each year. Computer records, representing years of research findings have been destroyed. Animals have been stolen. Researches have received hate mail and even death threats.

Food animal production facilities are the newest targets in this terrorism. The food production industry is a critical segment of our national security and economy.

You might hear arguments that terrorist acts are committed to bring animal abuse and neglect to the attention of the public. When looking at animal agriculture, let's use some common sense. Does it stand to reason that farmers or ranchers would not take the best care of their animals? It's their livelihood. They couldn't make money if the animals are not healthy and well cared for. Farmers and

ranchers ought to be able to work without fear of thefts, threats or vandalism.

The bill extends this same security to others involved in lawful enterprises using animals, including 4-H competitions, rodeos, circuses, dog and cat shows. It does not protect unlawful activities, such as dog and cock fights.

The bill also maintains current whistleblower protections for employees at facilities where violations of the Animal Welfare Act, or other laws designed to ensure the proper care and handling of animals, occur.

Mr. Speaker, this is a good compromise, a good effort at addressing a problem of increasing seriousness. I ask my colleagues to support H.R. 2407.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 2407, the Animal Enterprise Protection Act of 1992.

I want to commend the sponsor of the bill, the gentleman from Texas [Mr. STENHOLM] and the gentleman from New York [Mr. SCHUMER] for working out this compromise version of the bill. I know when we considered the bill in the Judiciary Committee a few weeks ago, there was much disagreement on how the bill should look. I am pleased that we have been able to work out these differences.

I am very pleased that the sponsors also dealt with a problem I have been raising over the last several years, violence and terrorism against abortion clinics. Under the definitions, "animal enterprise" includes "a commercial or academic enterprise that uses animals for research, or testing."

Webster's dictionary defines "animal" as "any of a kingdom (anamalia) of living beings, typically differing from plants in capacity for spontaneous movement and rapid motor response to stimulation." Women clearly qualify as animals as they are living beings not plants and have spontaneous movement and rapid motor response to stimulation. Women seeking services at abortion clinics are tested as a matter of course and some may even be part of a research program. They are undoubtedly protected by this bill.

Over the past several years, I have been terribly frustrated by the inability and unwillingness of the executive branch to provide fundamental protections to women wishing to carry out their constitutional right to obtain an abortion. By adopting this bill, we say no to terrorism against abortion clinics, as well as other animal facilities. I commend the gentlemen from Texas and New York for their leadership on this issue.

Mr. CLINGER. Mr. Speaker, I rise today in favor of H.R. 2407 as an original cosponsor of the bill. My reasons for cosponsoring this bill arise from both gratitude and concern—gratitude felt toward the farmers of this country and concern over the violent acts they have had to endure while feeding our great Nation. The unlawful attacks initiated by animal rights activists against these same farmers can be described as nothing short of criminal, and should be treated as such by our Federal Government. Arson, destruction of property, and death threats cannot and should not be tolerated by a nation that exists as a champion of personal freedom and justice.

Unfortunately, farmers have not been the only group forced to suffer these criminal attacks. Biomedical researchers, who have been so instrumental in the elimination of disease and the overall good health of our country, have encountered the same type of destructive behavior. Violent and destructive forms of protest should not be tolerated.

Granted, the emotions involved in an issue as delicate as that of the rights of animals may be strong. Such strong emotions make the existence of heated protests understandable. What it does not excuse, however, is the violent protest of any individual that threatens the safety of another American citizen. It is for this reason that I am voting for, and urge all of you to vote for, H.R. 2407.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2407, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to protect animal enterprises."

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 544) to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Research Facilities Protection Act of 1991".

SEC. 2. PROTECTION OF ANIMAL RESEARCH FACILITIES.

The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended by adding at the end the following new title:

"TITLE XXVI—ANIMAL RESEARCH FACILITIES

"SEC. 2601. SHORT TITLE.

"This title may be cited as the 'Animal Research Facilities Protection Act of 1991'.

"SEC. 2602. FINDINGS.

"Congress finds that—

"(1) there has been an increasing number of illegal acts committed against animal facilities;

"(2) these actions not only abridge the property rights of the owner of the facility, they may also damage the public interest by jeopardizing crucial scientific biomedical, or agricultural research;

"(3) these actions can also threaten the public safety by exposing communities to contagious diseases;

"(4) these actions may substantially damage federally funded research;

"(5) disruption of scientific research supported by the Federal Government can result in the potential loss of physical and intellectual property;

"(6) Federal protection of animal research facilities is necessary to prevent and eliminate burdens on commerce; and

"(7) the welfare of animals as well as productive use of Federal research funds require regulation to prevent unauthorized possession, alteration, destruction, or transportation of research records, test data, research materials, equipment, research animals, or any combination thereof.

"SEC. 2603. PROHIBITED ACTS.

"(a) IN GENERAL.—It shall be unlawful for any person—

"(1) to steal, cause the unauthorized release or the intentional loss of any animal from a research facility;

"(2) to damage, vandalize, or steal any property in or on a research facility;

"(3) to break and enter any research facility with an intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access, or remain on a research facility with the intent to commit an act described in paragraph (1) or (2);

"(5) to aid, abet, counsel, command, induce, or procure the commission of an act described in paragraph (1), (2), (3), or (4); or

"(6) knowing an offense described in paragraph (1) has occurred, to receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment.

"(b) SCOPE OF AUTHORITY DEFENSE.—It shall be a defense to any provision under this section that the person engaging in such acts is a Federal, State, or local law enforcement official acting within the scope of their official duties, or the person is acting under the authorization of a law enforcement official and the action is within the scope of the law enforcement official.

"SEC. 2604. PENALTIES.

"(a) IN GENERAL.—

"(1) GENERAL VIOLATIONS.—Any person who violates any provision of section 2603 shall be subject to a fine of not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(2) WILLFUL VIOLATIONS CAUSING HARM.—If the violation causes harm to person or property and is willful and malicious, the person shall be subject to a fine of not more than $10,000 or imprisoned for not more than 10 years, or both, for each such violation.

"(3) LIFE-THREATENING VIOLATIONS.—If as a result of the violation, the life of any person is placed in jeopardy, the person shall be fined not more than $25,000, or imprisoned for not more than 20 years, or both, for each such violation.

"(b) REASONABLE COSTS.—

"(1) DETERMINATION.—The United States District Court or the United States Magistrate, as the case may be, shall determine the reasonable cost of replacing materials, data, equipment, or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeat-

ing any experimentation that may have been interrupted or invalidated as a result of a violation of section 2603.

"(2) LIABILITY.—Any persons convicted of a violation described in paragraph (1) shall be ordered jointly and severally to make restitution to the research facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 2605. COURT JURISDICTION.

"The United States District Courts, the District Court of Guam, the District Court of the Virgin Islands, the Highest Court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, to prevent, and to restrain violations of this title, and shall have jurisdiction in all other kinds of cases arising under this title.

"SEC. 2606. PRIVATE RIGHT OF ACTION.

"(a) IN GENERAL.—Any research facility injured in its business or property by reason of a violation of this title shall have a private right of action to recover actual and consequential damages, and the cost of the suit (including a reasonable attorney's fee), from the person or persons who have violated any provision of this title.

"(b) CONSTRUCTION.—Nothing in this title shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this title. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of this title.

"SEC. 2607. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL FACILITIES.

"(a) CONDUCT OF STUDY.—The Secretary of Agriculture and the Attorney General shall jointly conduct a study on the extent and effects of domestic and international terrorism on animal research production, and processing facilities and all other facilities in which animals are used for research, food production, exhibition, or pets.

"(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary and Attorney General shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 2608. EFFECT ON FEDERAL AND STATE LAWS.

"Nothing in this title shall be construed to affect or preempt any Federal or State law or regulation.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of the Senate bill, S. 544, and to insert in lieu thereof the provisions of H.R. 2407, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to protect animal enterprises."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2407) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2407 and S. 544.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4906) to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes, as amended.

The Clerk read as follows:

H.R. 4906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Improvement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 101. BEGINNING FARMER AND RANCHER PROGRAM.

(a) OPERATING LOANS; GUARANTEES OF OPERATING LOANS.—Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941–1947) is amended by adding at the end the following:

"SEC. 318. ASSISTANCE TO BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—The Secretary shall provide assistance in accordance with this section to enable individuals to conduct viable farming or ranching operations. For purposes of this section, the term 'individual' means a natural person or an entity (other than a corporation) (1) all of whose owners or members are related by blood or marriage, and (2) none of whose owners or members has operated a farm or ranch for more than 5 years.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An individual may seek assistance under this section for a proposed or ongoing farming or ranching operation by submitting to the county committee of the county in which the operation is (or is to be) located, not later than 60 days before such assistance is to be first provided, a plan which—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and amounts of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements therefor) and, with respect to each item of needed equipment, whether the individual owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for such period, not exceeding 10 years, as is necessary for the operation to become financially viable without further assistance from the Secretary.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county com-

mittee shall approve a plan submitted by an individual in accordance with subsection (b) if the county committee determines that—

"(1) the individual has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

"(2) during the 5-year period ending with the submission of the plan, the individual has had sufficient education and experience to indicate that the individual is able to conduct a successful farming or ranching operation, as the case may be;

"(3) the individual owns, leases, or has a commitment to have leased to the individual the site or sites of the operation;

"(4) there is, or will be, available to the individual equipment sufficient to conduct the operation in accordance with the plan;

"(5) the individual agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

"(6) the individual, or in the case of an entity, each owner or member of the entity meets the requirements of paragraphs (1) and (3) of section 311(a).

"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—The Secretary shall approve an application for assistance under this section for an operation described in a plan approved by a county committee under subsection (c) if the Secretary determines that—

"(1) the operation (taking into account the types of agricultural commodities produced, and the average size of similar operations, in the area in which the operation is, or is to be, located) would generate income sufficient to cover the expenses of the operation, debt service, and adequate family living expenses of the individual, to the extent that other income would not cover such living expenses, if the operation received assistance under this section as provided for in the plan; and

"(2) not later than 10 years after first receiving assistance under this section, the operation will be financially viable without further assistance from the Secretary.

"(e) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF COMMITMENT PERIOD.—

"(A) INITIAL DETERMINATION.—Upon approval of an application under subsection (d), the Secretary shall, subject to subparagraph (C) of this paragraph, determine the period during which assistance under this section is to be provided for the operation described in the application (in this subsection referred to as the 'commitment period').

"(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) of this paragraph and subsections (f) and (g), extend the duration of the commitment period. The Secretary may not reduce the duration of the commitment period.

"(C) LIMITATION.—The duration of any commitment period (including any extensions thereof) shall not exceed 10 years.

"(2) OPERATING LOANS; LOAN GUARANTEES.—

"(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds therefor and subject to subsections (f) and (g), make a commitment to the applicant—

"(i) for each of the 1st, 2nd, 3rd, and 4th years of the commitment period—

"(I) to make a loan under this subtitle to the applicant at the interest rate charged to low income, limited resource borrowers under this subtitle, in the amount specified in the plan contained in the application; or

"(II) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application)—

"(aa) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

"(bb) if the Secretary determines that, despite the provision of the guarantee referred to in item (aa), the applicant will not qualify for such a loan, an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity;

"(ii) for each of the 5th, 6th, 7th, and 8th years of the commitment period—

"(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

"(II) if the Secretary determines that, despite the provision of the guarantee referred to in subclause (I), the applicant will not qualify for such a loan, then—

"(aa) to offer the lender an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount necessary to ensure that the effective rate of interest on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity; or

"(bb) if funds are not available for the interest subsidy payment described in item (aa), to provide to the applicant a loan under this subtitle that is comparable to one for which a person not receiving assistance under this section (but otherwise in the same situation as the applicant) would be eligible; and

"(iii) for each of the 9th and 10th years of the commitment period, to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of not more than 90 percent of the loan principal and interest.

"(B) SPECIAL RULE.—In the case of an application approved under subsection (d) with respect to which the commitment period is less than 10 years, the Secretary shall make the commitments described in subparagraph (A) for such portions of the commitment period as the Secretary deems appropriate.

"(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) of this section to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR SUCH PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

"(A) accord the applicant whose application is approved under subsection (d) priority in the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

"(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance such purchases if the plan contained in the application provides for such assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Agricultural Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) NO LOAN GUARANTEE FEES.—The Secretary may not charge a fee to any lender in connection with any loan guarantee provided in accordance with this subsection.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which such assistance is provided, unless—

"(1) not later than 60 days before such assistance is to be first provided for the particular year, the applicant has revised the plan describing the operation, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the county committee has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke any commitment for assistance made to an applicant under this section if the applicant's operation fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure is due to circumstances beyond the control of the applicant and has not materially reduced the likelihood of the operation becoming financially viable.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date the commitments made to an applicant are revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.".

(b) DOWN PAYMENT LOAN PROGRAM.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding at the end the following:

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—Notwithstanding any other section of this subtitle, the Secretary shall establish within the farm ownership loan program under this subtitle a program under which loans are made under this section to eligible beginning farmers and ranchers for down payments on farm ownership loans.

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be of an amount equal to 30 per-

cent of the price of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made under this section shall not exceed the minimum interest rate at which loans are made under subtitle C.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years, or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section, which shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch the price of which exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing which contains any of the following conditions:

"(A) The financing, other than that provided by the Secretary under this section, is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of such loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to eligible beginning farmers or ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers.

"(e) ELIGIBLE BEGINNING FARMER OR RANCHER DEFINED.—As used in this section, the term 'eligible beginning farmer or rancher' means an individual—

"(1) who is eligible for assistance under this subtitle;

"(2) who has operated a farm or ranch for not less than 5 nor more than 10 years;

"(3)(A) in the case of an owner or operator of a farm or ranch, who, individually or with the immediate family of the owner or operator—

"(i) materially and substantially participates in the farm or ranch; and

"(ii) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; and

"(B) in the case of an individual seeking to own or operate a farm or ranch, who, individually or with the immediate family of the individual, will—

"(i) materially and substantially participate in the farm or ranch; and

"(ii) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located;

"(4) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(5) who—

"(A) does not own land; or

"(B) directly or through interests in family farm corporations, owns land the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the individual is to obtain land is located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code;

"(6) who demonstrates that the available resources of the individual and the spouse (if any) of the individual are not sufficient to enable the individual to continue farming or ranching on a viable scale; and

"(7) in the case of an individual whose application for assistance under section 318 has been approved by the Secretary, the individual meets the requirements of section 310F(b)(1).".

(c) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding after the section added by subsection (b) of this section the following:

"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of an individual for assistance under section 318, the Secretary may not make a loan under this subtitle to the individual or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the individual.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted an operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan; and

"(3) the individual is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted the operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan guarantee; and

"(3) the individual is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means—

"(1) in the case of an individual who, at the time the application referred to in this section was approved, had not operated a farm for more than 3 years, the first 5 years for which the individual is provided assistance under section 318; or

"(2) in any other case, the first 3 years for which the individual is provided assistance under section 318.".

(d) TARGETING OF FUNDS.—

(1) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended by adding at the end the following:

"(5) In expending the following percentages of the funds available for insured operating loans under subtitle B for any fiscal year beginning after September 30, 1993, the Secretary shall, to the maximum extent practicable, give priority to making such loans under section 318:

"(A) Not less than 20 percent, for the first 6 months of fiscal year 1994.

"(B) Not less than 30 percent, for the first 6 months of each of fiscal years 1995 and 1996.

"(C) Not less than 40 percent, for the first 6 months of each of fiscal years 1997 and 1998.

"(D) Not less than 50 percent, for first 6 months of each of the succeeding fiscal years.".

(2) FARM OWNERSHIP LOANS.—

(A) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding at the end the following:

"(D)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts available for insured farm ownership loans for any fiscal year shall be for such loans to beginning farmers or ranchers.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(B) FUNDS RESERVED FOR DOWNPAYMENT LOAN PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (A) of this paragraph the following:

"(E)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts reserved for beginning farmers or ranchers under subparagraph (D) for any fiscal year shall be for downpayment loans under section 310E.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(C) CERTAIN UNOBLIGATED DOWNPAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (B) of this paragraph the following:

"(F) To the extent not inconsistent with an exercise of authority under section 355, any funds reserved for downpayment loans under section 310E for a fiscal year by reason of subparagraph (E) of this paragraph that are not obligated by the end of the 2nd quarter of the fiscal year shall be available throughout the remainder of the fiscal year for any type of insured farm ownership loans, with priority to be given to beginning farmers and ranchers.".

(3) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) of such Act (7

U.S.C. 1994(b)(2)) is amended by adding at the end the following:

"Not less than 25 percent of the amounts appropriated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be available during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.".

(4) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraphs added by paragraph (2) of this subsection the following:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

SEC. 102. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding after and below the end the following new subparagraph:

"(B)(i) Within 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. Upon receipt of such an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Within 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Farmers Home Administration with the requested information.

"(iii) If, within 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Farmers Home Administration has not received the information requested, the Farmers Home Administration county office shall notify the applicant, in writing, as to the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application within 15 calendar days after the date of the receipt of the notice.

"(vi) The district office shall notify the State office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons therefor.".

SEC. 103. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following:

"(e) The county committee shall meet to consider approval of an application received by the committee for a farm ownership or farm operating loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, within—

"(1) 5 calendar days after receipt if at the time of the receipt there is at least 1 other such application or plan pending; or

"(2) 15 calendar days after receipt if at the time of the receipt there are no other such applications or plans pending.".

SEC. 104. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDER PROGRAM.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary family living expenses; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of such items).

"(c) CERTIFIED LENDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans (other than loans with respect to which a guarantee is provided under section 318) for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify any lending institution which meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate its loans.

"(3) CONDITION OF CERTIFICATION.—As a condition of such certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of such certification are being met.

"(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of an approved loan made by certified lending institutions as described in paragraph (1), subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection, relating to creditworthiness and loan closing, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

"(C) be deemed to have guaranteed 80 percent of a loan made by a certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.".

SEC. 105. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

(a) COORDINATION OF ASSISTANCE FOR ELIGIBLE BEGINNING FARMERS AND RANCHERS.—Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

"(i)(1) Within 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to eligible beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding which shall govern how the Secretary and the State are to do so.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide an eligible beginning farmer or rancher (as defined in section 310E(e)) with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds, provide the farmer or rancher with—

"(A) a downpayment loan under section 310E;

"(B) a guarantee of the financing provided by the State program; or

"(C) such a loan and such a guarantee.

"(3) The Secretary may not charge any person any fee with respect to the provision of any guarantee under this subsection.

"(4) As used in paragraph (1), the term 'State beginning farmer program' means any program which is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT; PURPOSE.—Within 18 months after the date of the enactment of this section, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to eligible beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act;

(B) ways to maximize the number of new farming and ranching opportunities created through such program;

(C) ways to encourage States to participate in such program;

(D) the administration of such program; and

(E) other methods of creating new farming or ranching opportunities.

(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee which shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(3) of the Consolidated Farm and Rural Development Act).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other specialists in lending or technical assistance for beginning farmers and ranchers.

SEC. 106. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941–1947) is amended by adding after the section added by section 101(a) of this Act the following:

"SEC. 319. GRADUATION OF BORROWERS ASSISTED UNDER THIS SUBTITLE TO PRIVATE COMMERCIAL CREDIT.

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—Notwithstanding any other provision of this subtitle:

"(1) GENERAL RULE.—Except as provided in paragraph (2), the Secretary may not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to the borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) TRANSITION RULE.—If, as of the date of the enactment of this section, the Secretary has made loans to a borrower under this subtitle for 5 or more years, or has provided guarantees for 10 or more years with respect to 1 or more loans made to the borrower for a purpose specified in this subtitle, the Secretary may not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after such date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

SEC. 107. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding at the end the following:

"(f)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is $50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

SEC. 108. TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.

Section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

SEC. 109. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008c) is amended by adding at the end the following:

"SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

"The Secretary shall classify, by gender, records of applicants for loans and guarantees under this title.".

SEC. 110. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.

Section 333(2)(A)(iii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

SEC. 111. LIMITATION ON AGGREGATE INDEBTEDNESS.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking "and 310D of this title" and inserting "310D, and 310E".

SEC. 112. GRADUATION OF SEASONED BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding after the subsection added by section 107 of this Act the following:

"(g) GRADUATION OF SEASONED BORROWERS TO THE LOAN GUARANTEE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall annually review the operating loans made under section 312 to each seasoned borrower, and if, based on the review, the Secretary determines that the borrower is able to obtain a loan, guaranteed by the Secretary, from commercial or cooperative lenders at reasonable rates and terms, and for purposes and periods of time similar to those for which the operating loan was made to the borrower, then the borrower shall be ineligible to receive a new operating loan under section 312 for similar purposes, unless the borrower demonstrates to the Secretary that the borrower is unable to obtain such a guaranteed loan.

"(2) LISTING OF SEASONED BORROWERS.—Within 180 days after the date of the enactment of the Agricultural Credit Improvement Act of 1992, and annually thereafter, the Secretary may direct all county offices to make available to qualified lenders a listing of all seasoned borrowers, as provided in regulations issued by the Secretary.

"(3) QUALIFIED LENDERS.—Upon request and upon application for a guaranteed loan to a qualified lender, by a seasoned borrower, the Farmers Home Administration shall provide the lender with all current and past documentation relating to the approval and the continued compliance with the terms of the direct operating loan then held by the borrower.

"(4) INTEREST RATE.—To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions under section 351.

"(5) DEFINITIONS.—As used in this subsection:

"(A) SEASONED BORROWER.—The term 'seasoned borrower' means a borrower—

"(i) to whom a loan has been made under section 312; and

"(ii) who has maintained a satisfactory borrowing relationship with the Farmers Home Administration for at least 24 consecutive months.

"(B) QUALIFIED LENDER.—The term 'qualified lender' means a lender approved by the Secretary under—

"(i) the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, January 1, 1991, edition;

"(ii) the certified lender program established under section 339(c); or

"(iii) any program that is a successor to either of such programs.".

SEC. 113. DEADLINE FOR ISSUANCE OF REGULATIONS.

Not later than September 30, 1993, the Secretary of Agriculture shall issue interim final regulations to implement the amendments made by this title.

TITLE II—AMENDMENTS TO THE FARM CREDIT ACT OF 1971

SEC. 201. VALUATION OF RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Section 2.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2074(b)) is amended to read as follows:

"(b) APPLICATION OF EARNINGS.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation of reserves against loan assets in accordance with generally accepted accounting principles)—

"(1) first to the restoration of the impairment (if any) of capital; and

"(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.".

SEC. 202. ELIMINATION OF AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION TO APPOINT NONVOTING MEMBER OF FARM CREDIT SYSTEM FUNDING CORPORATION BOARD.

Section 4.9(d)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2160(d)(2)) is amended—

(1) in the paragraph heading, by striking "REPRESENTATIVES" and inserting "REPRESENTATIVE";

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (B), as so redesignated, by striking "persons" and all that follows through "Insurance Corporation" and inserting "person so designated".

SEC. 203. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.

Section 3.7(f) of the Farm Credit Act of 1971 (12 U.S.C. 2128(f)) is amended—

(1) by striking "the installation, expansion, or improvement of" and inserting "installing, maintaining, expanding, improving, or operating"; and

(2) by striking "to extend" and inserting "extending".

SEC. 204. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended by inserting ", and, notwithstanding section 3.3(d), the bylaws may provide for 1 director to be elected on the basis of 1 vote for each share of voting stock of the bank" before the period.

SEC. 205. PER DIEM COMPENSATION OF BANK DIRECTORS.

(a) IN GENERAL.—Section 4.21 of the Farm Credit Act of 1971 (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF DIRECTORS.

"Each member of the board of directors of a System bank may receive compensation only for days during the year in which engaged in the performance of duties of such a director, and in an amount not exceeding $300 for each such day, adjusted annually to reflect any increase in the cost of living since the end of 1991, as determined under regulations prescribed by the Farm Credit Administration.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

SEC. 206. FREQUENCY OF EXAMINATIONS OF SYSTEM INSTITUTIONS.

Section 5.19(a) of the Farm Credit Act of 1971 (12 U.S.C. 2254(a)) is amended by striking the 1st and 2nd sentences and inserting "Not less frequently than once every 3 years, Farm Credit Administration examiners shall examine each institution of the Farm Credit System at such times as the Farm Credit Administration Board may determine.".

SEC. 207. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59(b) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-8(b)) is amended to read as follows:

"(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

"(1) EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—If the Board of Directors deems it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this part, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

"(2) APPOINTMENT OF EXAMINERS.—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

"(3) POWERS AND REPORT.—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

"(4) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.".

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—Section 5.19 of such Act (12 U.S.C. 2254) is amended by adding at the end the following:

"(d) Upon receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—

"(1) furnish for the confidential use of the Corporation reports of examination of the institution and other reports or information on the institution; and

"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Corporation the report of the examination and such other information, or

"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.".

SEC. 208. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.

Section 4.16 of the Farm Credit Act of 1971 (12 U.S.C. 2204) is hereby repealed.

SEC. 209. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.

Section 5.15(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting ", for purposes of sequestration," after "regard"; and

(2) by striking "or any other law".

SEC. 210. APPROVAL OF COMPETITIVE CHARTERS.

Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

"(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) in which the charter of an institution that is not seeking the charter amendment authorizes such institution to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

"(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

"(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) will authorize the association to exercise lending authority in any territory in such geographic area in which the charter of an association that is not requesting the charter authorizes such association to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).".

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. TECHNICAL CORRECTIONS.

(a) CORRECTION OF REFERENCE TO SECTION 1236 OF THE FOOD SECURITY ACT OF 1985.—Title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 is amended, in the item designated "CONSTRUCTION AND ANADRONOMOUS FISH" under the heading "UNITED STATES FISH AND WILDLIFE SERVICE", by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))".

(b) SECTION 1245(b) OF THE FOOD SECURITY ACT OF 1985.—

(1) CORRECTION.—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(c) SECTION 307(a)(6)(B) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(d) SECTION 310D(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(e) SECTION 312(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) REPLACEMENT OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—

(A) CORRECTION.—Section 1818(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624; 104 Stat. 3830) is amended to read as follows:

"(b) OPERATING LOAN PURPOSES.—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

(2) REPEAL OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102-237; 105 Stat. 1866) is hereby repealed, and the Consolidated Farm and Rural Development Act shall be applied and administered as if such subsection had never become law.

(f) AMENDMENTS TO SECTION 331E OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking "Disaster Relief Act of 1974" and inserting "the Robert T. Stafford Disaster Relief and Emergency Assistance Act"; and

(B) in subsection (b), by inserting "Robert T. Stafford" before "Disaster Relief".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (d) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(g) SECTION 335(e)(1)(A)(i) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTIONS TO AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Paragraph (1) of section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1867) is amended—

(A) by inserting "the 1st place such term appears" before "and all that follows"; and

(B) by striking "borrower-owner (as defined in subparagraph (F)" and inserting "the borrower-owner (as defined in subparagraph (F))".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(h) SECTION 352(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(i) SECTION 352(b)(2) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking "borrower's" and inserting "borrower-owner's".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(j) SECTION 702(h)(2) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1881) is amended by inserting "section" before "2388(h)(3)".

(k) SECTION 306C(b)(1) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking "or connecting such systems to the residences of such individuals" and inserting ", connecting such systems to the residences of such individuals, or installing plumbing and fixtures within the residences of such individuals to facilitate the use of the water supply and waste disposal systems".

(l) SECTION 306C OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following:

"(f) Within 30 days after the date of the enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments and repeal made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4906 is the Agriculture Credit Improvement Act of 1992. This legislation continues our commitment to keep our agriculture sector on a solid financial footing. In doing so, this bill seeks to address the changing credit needs of farmers and ranchers and our rural communities.

This legislation has evolved from public hearings over the past 2 years held by the Subcommittee on Conservation, Credit, and Rural Development, chaired by the gentleman from Oklahoma [Mr. ENGLISH].

At these hearings, we heard about the financial obstacles that face people who want to start an agricultural enterprise. We also heard about the paperwork and redtape involved in getting approval of farm program loans through Farmers Home Administration [FmHA]. H.R. 4906 seeks to address these and other agricultural credit needs.

The most significant provisions in title I of H.R. 4906 address the credit needs of beginning farmers and ranchers. As our farming population ages and many farmers near retirement, younger people who want to farm are finding it increasingly difficult to obtain affordable credit to buy into these farm operations.

H.R. 4906 establishes a pragmatic operating loan program for beginning farmers and ranchers. Under our proposal, a person meeting the strict eligibility criteria could qualify for low-interest loans for up to 10 years. These operating loans would be renewed annually as long as the applicant meets the objectives of the borrower's approved financial plan.

H.R. 4906 also establishes a new 10-year down payment loan program for the purchase of farmland by beginning farmers and ranchers. In rural America, ownership of your own farm or ranch is no less important than home ownership is to the city dweller.

I want to stress that the funding of the new beginning farmer programs are authorized out of current FmHA farm lending resources. No increase in appropriated funds is necessary to fund these programs. H.R. 4906 also directs the Secretary of Agriculture to coordinate these programs with States that have established complementary beginning farmer programs.

The bill also addresses a number of problems associated with time delays and paperwork requirements for approval of a FmHA guaranteed loan. The bill will speed processing time and reduce paperwork for both borrowers and lenders.

In addition, H.R. 4906 makes several other changes in FmHA operating procedures. For example, it modifies the method of calculating the debt service margin requirement for FmHA loans and it addresses gender discrimination in lending.

Probably the most significant administrative change we make is to limit for the first time the cumulative number of years a person can participate in the farm lending programs. It has become clear to many that FmHA has been allowed to stray from its original purpose as a temporary lender of last resort to become a de facto permanent source of credit for far too many borrowers.

It is time to bring FmHA back to its original purpose. Accordingly, the bill sets a 10-year limit for participation in direct FmHA loans and a 15-year cumulative limit for individual participation in direct and guaranteed FmHA loans.

Title II of H.R. 4906 makes several, mostly technical changes in the authorities of the Farm Credit System, the Government sponsored enterprise [GSE] that serves the lending needs of the agricultural sector. These measures do not include any provisions included in H.R. 3298—the so-called Farm Credit System/GSE bill—which was considered by the House last year and which we hope to bring to the floor in the near future.

I would point out that a couple of provisions in title II are directed at the needs of rural communities. H.R. 4906 expands the lending authority of the banks for cooperatives to make loans for rural water and waste water systems, and it will allow system institutions to guarantee instruments of indebtedness which are exempt from Federal taxation which will help spur certain kinds of rural development activities.

Title III of H.R. 4906 makes various needed technical corrections to the Food Security Act of 1985, the Consolidated Farm and Rural Development Act, and the Food, Agriculture, Conservation, and Trade Act of 1991.

I want to commend the members of the House Agriculture Subcommittee on Conservation, Credit, and Rural Development for their work on this issue and their contributions to this legislation. I want to also commend the leadership and work of the subcommittee chairman, Mr. ENGLISH, and the ranking minority member, Mr. SMITH of Oregon, in drafting the legislation. And I must also single out Mr. PENNY for his significant contributions to the beginning farmer provisions.

Mr. Speaker, this legislation is a small but important step to help beginning farmers with limited resources get

a start in farming. I am confident there is a new generation of talented farmers out there if we as a Nation are willing to give them a helping hand to get started. The beginning farmer provisions in this bill extend that helping hand within current budget resources. I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma [Mr. ENGLISH], who has done yeoman work in this endeavor and has worked to the point that brings us here today.

Mr. ENGLISH. Mr. Speaker, there is no question that the average age of our family farmers in America today continues to increase. I know in the country it is some 56 years of age. In my own State of Oklahoma it is some 58 years of age. Without question, unless we bring more young people into agriculture, the family farming concept is in danger of ending.

With that in mind, we looked for some way to use the very limited resources that our Federal Government has in consolidating those in a new program, a program that would in fact make a commitment, a long-term commitment by the U.S. Government, to those farmers who have two things: first of all, that have the background, the experience, and/or the education that would give us good reason to believe that they would be successful in a career in agriculture; and, second, they must put together a viable plan, one that has a farming operation that gives us every reason to believe would be successful if carried out.

We are also very painfully aware that in the past when young people have had the opportunity to get into agriculture without substantial resources to support them, either from their families or certainly support from financial institutions, we have found that the rate of failure has been very high. This is particularly true in the last decade.

The first 3 years is the most critical period for most of these beginning farmers. But many have in the past gone out and borrowed large amounts of money, purchased land, purchased equipment, and then found that their debt load is simply too great and the return for their crops has simply been too little.

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What this plan attempts to do, Mr. Speaker, is to set up a program in which we begin our farmers through operating loans, through leased land. And it is anticipated that many of these young farmers, beginning farmers, would enter into lease-purchase arrangements with older farmers that are looking to retire and, through the first 5 years, get on their feet through leased property and through low interest operating loans that would gradually be phased out.

The second period, over the second 5 years, would then be in a position to begin purchasing land. And at the end of this 10-year period, would then be expected to be on their feet, be in a position to continue without support of the Federal Government.

So unlike our programs of the past, which have only 1-year commitments which are very limited and to which very limited resources have been available, this is a program for a 10-year commitment and one that eases beginning farmers into the occupation and work with and through a 10-year period. And so long as they uphold their end of the bargain, the U.S. Government is making the commitment that they, too, will stick with these beginning farmers.

I am also very happy to say, Mr. Speaker, that the General Accounting Office, in studying this new approach, has told us that this will be very taxpayer friendly; namely, that they feel that the success rates will be greater. And certainly this will be far better for the taxpayers of this county, cost far less money than the programs that we have seen in the past. So it is a program we think has great benefit.

Let me also say, Mr. Speaker, that the gentleman from Minnesota [Mr. PENNY], who is the cosponsor of this legislation and one who has done an enormous amount of work in the beginning farmer concept, is one that I certainly want to recognize and appreciate for the fine work that he has done and for the cooperation.

And let me say also that for the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Oregon [Mr. SMITH], who are members of the Committee on Agriculture, the ranking member of the full committee and the subcommittee, have also been tremendous in the contributions that they have made toward this endeavor. It is truly a bipartisan proposal and one that has passed unanimously through the House Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4906.

I would like to take this time to commend the gentleman from Oklahoma [Mr. ENGLISH], who is the chairman of the Subcommittee on Conservation, Credit, and Rural Development, for bringing this bill to the full committee and to the floor, and the gentleman from Minnesota [Mr. PENNY] for his sponsorship and interest in this subject matter.

I know even the most conservative members of my farm constituency, when asked what we could do to help the farm community, often characterize in their response to "help beginning farmers," because they know how hard it is.

In fact, I was in the living room of one of our farmers the other day and he said, "You know, unless you inherit the property or have somebody to bankroll you to start with, you can't make it in farming today."

And I think this is what this bill is all about. It recognizes the aging population of so many of our farmers. And that is true, we are having a hard time attracting young people, the newer generation of farmers into farming.

It is difficult, and one of the reasons it is difficult is the limited resources available to those who want to start a farm operation.

As the gentleman from Oklahoma [Mr. ENGLISH] explained, what this bill does is it does what the Farmers Home Administration has traditionally been set up to do. And that is to provide limited resource loans to those people who do not have it. But if they do pass muster and they do present a plan and they are and do have the background, they are a good reason to support with a loan.

This is not just throwing money at somebody and saying, "Come back whenever you need some more." This is a set procedure that, first of all, requires for the appropriate background to be made but also to be given an operating commitment of 10 years. We are going to stick with this individual. And for the first 3 years, they are going to have operating loans so that they, we the taxpayers, we the Farmers Home Administration, can see what kind of farmers, indeed, that they will make.

After they have a proven track record, then they can apply for a down payment on some property of their own. And again, within that 10-year framework, we can analyze and help these people make their way through the farming operations that they wanted to embark on.

So, Mr. Speaker, I see this as a traditional role of the Farmers Home Administration, to provide a hand up and to provide assistance to those who do have limited resources.

I also want to point out that this bill has some other matters in it which the administration does not oppose, and I would also want to report to my colleagues that the administration's position is one of nonopposition of this suspension.

Mr. Speaker, I think this is a good bill, a necessary bill, and one which will help, I think, the next generation of farmers in this country get on their feet in the most constructive way.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I rise in support of H.R. 4906, the Agricultural Credit Improvement Act of 1992.

As a farmer, I know how difficult it can be to get the credit you need for

planting, for buying new equipment, to keep the farm going 1 more year. And as a woman, I know it is even more difficult to get the credit you need—and deserve. More often than not, women trying to get into or stay in and succeed at farming have had many hurdles placed in their paths. So although it is unfortunate, it is not surprising that only 6 percent of American farms are run by women.

And even though these women-operated farms tend to have low debt-to-asset ratios—making them good credit risks—the women who run them have difficulty getting the credit they need to raise their farm income and further improve their operations.

This bill reaches out to these women farmers. The Agricultural Credit Improvement Act will ensure that individuals who have been discriminated against because of gender can participate in FmHA programs for socially disadvantaged groups.

In addition, this bill will greatly help beginning farmers and ranchers of both genders. For example, FmHA will target some existing funds for special programs, and will establish a new farm operating loan program for people who have owned or operated their farms for 5 years or less. And, FmHA will also create a down payment loan program to help farmers and ranchers with 5- to 10-years experience with land purchases.

The bill also revises existing FmHA programs by placing limits on participation in FmHA loan programs and establishing a certified lenders program. These revisions will streamline and simplify the application process and encourage the transition to private credit for those who may be eligible. Both the Farmers Home Administration and loan recipients will benefit from these important changes.

Mr. Speaker, programs to assist farm owners and operators, especially those programs that target socially disadvantaged groups, must include women who want to get into or stay in farming. I believe this bill is a step in the right direction, and I encourage my colleagues to support it.

Mr. DE LA GARZA. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, first and foremost, I want to thank the chairman for his leadership on this issue. I want to thank the chairman of our subcommittee, the gentleman from Oklahoma [Mr. ENGLISH] for his cooperation over the last number of months, as we have attempted to put together this farm credit legislation, and as well to the ranking Republican on the committee for his strong interest in this arena.

We started some months ago to establish what we hoped would be a major restructuring of our Farmers Home Administration policies. Our goal was to see to it that more of those funds be dedicated to beginning farmers and ranchers so that we could assure the continuation of our family farm structure on into the future. And all members of our committee showed strong support for this concept at the outset and strong support for the legislation, as we brought it through the committee.

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Mr. Speaker, I want to stress today that I believe this bill is one of the most important pieces of credit legislation to come out of the Committee on Agriculture in a number of years. Too much so in the last 10 years, the credit bills that have been considered by our committee have dealt with farm foreclosures and the credit crisis. Because of these external circumstances, the committee was placed in a reactive mode. We can now move forward to establish policies which focus on the future.

Mr. Speaker, I offered the beginning farmer bill 4 years ago to establish a system within the Farmers Home Administration to help young farmers start in the high-capital business of farming. The average age of farmers in my home State of Minnesota is 60 years old. The face of agriculture will change greatly during the next decade as many of these farmers retire.

As this land transfer occurs, it is possible that existing farms will simply grow larger and larger. Instead, I would hope that young farmers and ranchers will have the financing and the resources available to take over their family's farm or to purchase other land and to start their own operation.

This legislation may also slow the decline of small towns that are so dependent on trade with farmers. Some rural experts say that for every five or six farmers who leave the land, a business on Main Street closes its doors. This is not just an issue of who will farm the land, but who will live in rural America.

The Agricultural Credit Improvement Act redirects Farmers Home Administration resources into downpayments, ownership, and operating loans for beginning farmers and ranchers. In addition, the agency is expected to work actively with these new procedures to help these young farmers graduate to commercial lenders within 10 years.

The legislation also encourages and facilitates coordination with State level Young Farmer Assistance Programs. The transfer of productive agricultural assets from retiring to aspiring farmers may be the most important agricultural credit issue we face in the coming years. I am proud to have taken an active role in this legislation, and I urge my colleagues to support passage of the bill.

Mr. GUNDERSON. Mr. Speaker, I rise in support of H.R. 4906. This bill, in addition to other things, establishes within the Farmers Home Administration an operating, equipment, and downpayment loan program especially for beginning farmers and ranchers.

The average age of a Wisconsin farmer is 50.3 years according to the latest Census of Agriculture, up from 48.4 years in 1982. The number of farms in Wisconsin declined from 90,000 in 1982 to 81,000. Half as many new farmers are entering the business as are exiting and Wisconsin is experiencing a replacement deficit.

At a conference I held in my district in May, the biggest concerns facing Wisconsin farmers, next to good dairy prices, are the increasing average age of farmers and the drop in the number of farms.

This bill will help remedy this situation. The bill—

Establishes expedited FmHA loan application procedures;

Simplifies applications for guaranteed loans of $50,000 or less;

Modifies debt service margin requirements; and

Helps graduate FmHA direct loan borrowers to private sector financing guaranteed by the Secretary of Agriculture, to make way for new beginning farmer applicants.

This bill will give new farmers a financial means to overcome the tremendous hurdles of starting a farming operation, while also providing them with the guidance and expertise to become financially independent. I believe, with this legislation, we send future and new farmers across the country the signal that agriculture is important, the occupation is honorable, we want to see it profitable, and we want to encourage new entrants.

I applaud my colleagues on the Agriculture Committee for their insightful consideration of this legislation and urge my colleagues to vote for it.

Mr. PANETTA. Mr. Speaker, I rise in support of this measure and commend the chairman of the Agriculture Subcommittee on Conservation, Credit, and Rural Development, Mr. ENGLISH, and the chairman of the Agriculture Committee, Representative DE LA GARZA, for all their tremendous work in the development and consideration of the bill. It is exciting that the focus of this legislation concerns new Farmers Home Administration [FmHA] loan programs to assist beginning farmers and ranchers get started in the business.

The new beginner farmer and rancher program will authorize the FmHA to provide a 10-year commitment for annual operating loans to eligible individuals with not more than 5 years of experience in farming or ranching. It will require that loans made during the first 4 years of the commitment period be at a reduced interest rate. The measure will also earmark funding within FmHA's direct and guaranteed farm operating loan programs for the beginning farmers or ranchers to purchase equipment, seed, livestock, and other inputs. Further, a new downpayment loan program would be authorized for the purchase of farmland by beginning farmers or ranchers and earmarks funding within FmHA's direct farm ownership loan program for this program.

In particular, I would like to add that I appreciate Mr. ENGLISH's support in accepting an

amendment that I offered at full committee that would make it possible for California farmers and ranchers to participate in these new programs. Agriculture in the State of California is extremely labor intensive because of the types of crops, like specialty crops, that are produced. California's farms are usually larger than those in other regions of the country and employ more workers to harvest crops, such as avocados, which cannot be machine harvested.

I am very pleased that this new legislation will serve the great State of California and provide the opportunity for new farmers and ranchers to participate. This bill is an important step to help beginning farmers with limited resources get started, and address our future long-term agricultural needs.

Mr. BEREUTER. Mr. Speaker, the legislation, H.R. 4906, certainly has both positive features and some sections which are problematic which should not be enacted in their current forum. This Member certainly does support the efforts to provide credit for young, enthusiastic, and hardworking individuals who have the desire to own and operate a farm.

The declining number of young farmers entering the profession is one of the main concerns of agriculture producers in this Member's district in Nebraska and throughout the country. In 1987, less than 15 percent of the farm operators in the United States were under the age of 35, and nearly one-half were over 55.

By providing needed operating and purchase loan programs for young qualified farmers and ranchers, the beginning farmer provisions of H.R. 4906, the Agricultural Credit Improvement Act, properly address this alarming trend. In addition, the bill's provisions strike a fair balance between providing needed benefits to young farmers and ranchers without making them overly dependent upon the program.

For instance, the direct and guaranteed operating loan program requires, importantly, that beginning farmers "graduate" to private financing after no more than 15 years, and the downpayment loan program requires applicants to obtain 60 percent of the purchase price of a farm or ranch from commercial lenders or other financing sources.

However, while this Member supports provisions to establish a new beginning farmer and rancher program, this Member has substantial concern and would oppose certain provisions added with respect to the Farm Credit System, specifically:

Authority granted to banks for cooperatives explicit authority to guarantee bonds backed by sewer and water loans; and

Reduction of required examination frequency of Farm Credit System institutions from once a year to at least once every 3 years.

The first provision pertaining to sewer and water loan bonds is admittedly an expansion of current authority. Banks for cooperatives are currently allowed to make loans for sewer and water projects. The bill would allow these entities to take the financing process one step further and potentially start a new secondary market.

Since this provision also raises serious tax questions, and requires changes to the Tax Code, I doubt whether such a provision will have the force of law even if enacted. However, that is not a certainty.

This Member, however, is concerned about the provision since it gives the wrong party the right authority. I don't question efforts to provide more financing for rural areas. What this Member finds objectionable or at least questionable is the failure of the bill's sponsors to grant the guarantee authority to existing secondary markets, such as the Federal Agricultural Mortgage Corporation, known as Farmer Mac. At a time when the Federal Government's liability for guaranteed loans and bonds already exceeds several billion dollars, more thought should have been given as to which entity should guarantee the loans.

This Member also believes it to be particularly ill-advised to relax the examination requirement for Farm Credit System institutions. In the last 4 years, Congress has taken steps to ensure appropriate regulation for the Nation's savings and loans, banks, and other financial institutions. Reducing the examination requirement for Farm Credit System institutions—a system which received $4 billion in Federal assistance in 1987—is unwise and at least deserves further study before legislative action. Regular examination requirements should be in place for all financial institutions, regardless of the financial strength of an institution at a given point in time.

Mr. Speaker, despite the beginning farmer initiatives which are good, these problematic provisions on the FCA must be corrected, at least in conference, before this Member can ultimately support H.R. 4906.

Mr. SMITH of Oregon. Mr. Speaker, I would like to rise in support of H.R. 4906, the Agricultural Credit Improvement Act of 1992.

Throughout the hearing process on H.R. 4906, many have contributed to the development and improvement of this fine legislation. The end product is one which will encourage new and beginning farmers to join the again ranks of our Nation's agricultural producers.

During subcommittee consideration, I had intended to offer a noncontroversial amendment that maintains the status quo with respect to the Farm Credit System's treatment of patronage equity as permanent capital. I am unaware of any opposition to the substance of this amendment.

However, Chairman DE LA GARZA requested that I defer because this provision is included in the Senate GSE legislation, S. 1709. I understand his desire that all GSE-related matters be handled under the umbrella of S. 1709 and H.R. 3298, the House counterpart. The chairman has assured me that he agrees with the merits of this provision and will either include it in any future House GSE legislative action, or will work to include it in conference with the Senate.

Under the Farm Credit System's cooperative structure, local lending associations—ACA's, PCA's, FLBA's FLCA's—own stock in their district's Farm Credit Bank [FCB]. Earnings by the FCB are either retained by the FCB or paid as dividends to the associations.

If the FCB retains the earnings, the FCB and its owner/associations agree to allocate some portion of the earnings to the stock held by the associations. The bank retains the earnings and the value of the association's stock increases.

For regulatory permanent capital purposes only, the FCB and its associations agree on which portion of the association's stock is counted as regulatory permanent capital by the FCB and which portion is counted by the association. There is no double counting.

Current Farm Credit Administration [FCA] regulations require that beginning in 1993, associations may no longer count their investment in the bank as regulatory permanent capital. Practically, this would require FCB's to download excess association stock to associations, resulting in a tax liability for the association or the associations would be forced to raise interest rates to farmers and ranchers to build the necessary regulatory permanent capital.

On April 28, 1992, the FCA Board voted to set aside this regulation for 2 years. If allowed to become effective, the FCA regulation would decrease the amount of capital in the system and could cause higher rates or lessen the amount of credit available for farmers and ranchers.

This amendment would have merely codified current system capital practices and permanently override the FCA regulations. System banks and associations could continue to agree on where to allocate the associations' investment for regulatory permanent capital purposes.

Mr. Speaker, this legislation has been carefully crafted. I urge by colleagues to give it thoughtful consideration and encourage its swift passage.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4906, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion thereof, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the loan's present value discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of the enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act for 60 months after the prepayment; and

"(ii) a borrower that prepaid a loan before such date of enactment at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive such direct or insured loans until 120 months after the date of the prepayment; or

"(II) to apply for or receive such direct or insured loans until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

In cases where a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before such date of enactment, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(B) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

SEC. 3. REPEAL OF SECTION 412.

Section 412 of the Rural Electrification Act of 1936 (7 U.S.C. 950b) is hereby repealed.

SEC. 4. REPEAL OF SECTION 311.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is hereby repealed.

SEC. 5. GRANTS TO ENABLE PROVIDERS OF HEALTH CARE AND EDUCATIONAL SERVICES IN RURAL AREAS TO IMPLEMENT INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) FINDINGS.—The Congress finds that—

(1) interactive telecommunications systems hold the potential to alleviate many of the problems rural Americans face in obtaining access to adequate health care and expanded educational services; and

(2) access to such systems by providers of health care services and educational institutions in rural areas would greatly increase their ability to provide more comprehensive health care and education to rural, underserved populations.

(b) GRANT PROGRAM.—Subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by adding at the end the following:

"CHAPTER 3—IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS

"SEC. 2338. GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Administrator of the Rural Electrification Administration (in this chapter referred to as the 'Administrator') shall establish a program for providing grants to any qualified consortium to assist the consortium in obtaining access to modern interactive telecommunications systems through the public switched network.

"(b) DEFINITIONS.—

"(1) QUALIFIED CONSORTIUM.—As used in this chapter, the term 'qualified consortium' means a consortium which—

"(A) provides health care services or educational services in a rural area of a qualified State; and

"(B) is composed of—

"(i) a tertiary care facility, rural referral center, or medical teaching institution, or an educational institution accredited by the State;

"(ii) any number of institutions that provide health care services or educational services; and

"(iii)(I) in the case of a consortium seeking a grant under this chapter to improve health care services, not less than 3 rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities; or

"(II) in the case of a consortium seeking a grant under this chapter to improve educational services, not less than 3 educational institutions accredited by the State.

"(2) QUALIFIED STATE.—The term 'qualified State' means a State which has adopted, within 1 year after the date final regulations are prescribed to carry out this chapter, a plan for the upgrading and modernization of the rural telecommunications infrastructure of the State which, among other things—

"(A) provides for the elimination of party line service in rural areas of the State;

"(B) encourages and improves the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas of the State;

"(C) provides for an enhancement in the quality and availability of educational opportunities for students in rural areas of the State;

"(D) provides for improvement in the quality of medical care provided, and access to medical care afforded, to people in rural areas of the State;

"(E) provides incentives for local telephone exchange carriers to improve the quality of telephone service and access to advanced telecommunications services for subscribers in rural areas of the State, including facsimile document transmission, multifrequency tone signaling services, interactive audio and video transmissions, voicemail services, and other telecommunications services;

"(F) provides for the full participation of rural areas in the modernization of the telecommunications network through the implementation of joint coordinated network planning, design, and cooperative implementation among all local telephone exchange carriers in the provision of public switched network infrastructure and services;

"(G) provides for the achievement, preservation, and enhancement of universal service by bringing reasonably priced, high-quality, advanced telecommunications network capabilities to the people of the rural areas of the State, including through the sharing of public switched network infrastructure and functionality by local telephone exchange carriers at the request of local telephone exchange carriers lacking economies of scale or scope to provide such infrastructure or functionality on their own;

"(H) provides for the achievement of such goals within 10 years after the adoption of the plan; and

"(I) does not alter the boundaries of any local telephone exchange company franchised service area designated or recognized by the State, or the equivalent in the State.

"(3) RURAL AREA.—The term 'rural area' has the meaning given such term in section 203(b) of the Rural Electrification Act of 1936.

"(4) TELEPHONE SERVICE.—The term 'telephone service' has the meaning given such term in section 203(a) of the Rural Electrification Act of 1936.

"(c) SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATION REQUIREMENT.—

"(A) IN GENERAL.—Any qualified consortium that provides services in a State and

desires to obtain a grant under this chapter shall submit to a State agency designated by the Governor of the State an application in such form, containing such information and assurance, and at such time, as the Administrator may require.

"(B) CONTENTS OF APPLICATION.—The application shall contain or be accompanied by—

"(i) a copy of the State plan described in subsection (b)(2);

"(ii) the plan of the applicant, for obtaining access to interactive telecommunications systems, which—

"(I) specifies, consistent with subsection (f), the uses to be made of such systems;

"(II) demonstrates that the systems will be capable of being readily connected to the established public switched network; and

"(III) is compatible with the State plan; and

"(iii) a commitment by the State to make a grant to the applicant in an amount equal to 20 percent of the funds required to carry out the plan of the applicant, conditional upon a commitment by the Administrator to make 1 or more grants to the applicant under this chapter in an amount equal to 80 percent of the funds required to carry out the plan of the applicant.

"(2) REVIEW AND COMMENT.—The State agency shall review the application and the applicant's plan and, after any revisions made by the applicant are incorporated, transmit to the Administrator the application and plans, and the comments of the State agency.

"(3) SELECTION OF GRANTEES.—The Administrator shall—

"(A) review the applications and plans transmitted pursuant to paragraph (2);

"(B) consider the comments of the State agency with respect to the application; and

"(C) make grants in accordance with paragraph (4) to each applicant therefor that complies with the requirements of this chapter and the regulations prescribed by the Administrator to carry out this chapter.

"(4) PRIORITIES.—Priority for grants under this chapter shall—

"(A) be accorded to applicants whose applications demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in subsection (f)(1);

"(ii) the participation of the local telephone exchange carrier in providing and operating the telecommunications transmission facilities required by the plan; and

"(iii) unconditional financial support from the local community; and

"(B) so as to ensure, to the extent possible, that various regions of the United States benefit from the use of the grants.

"(d) MAXIMUM AMOUNT OF GRANT.—The amount of each grant under this chapter shall not exceed $1,500,000.

"(e) DISTRIBUTION OF GRANTS.—Grants to any qualified consortium under this chapter shall be disbursed over a period of not more than 3 years.

"(f) USE OF FUNDS.—

"(1) IN GENERAL.—Grants under this chapter may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(A) in the case of grants to improve health care services—

"(i) consultations between health care providers;

"(ii) transmitting and analyzing x-rays, lab slides, and other images;

"(iii) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(iv) developing innovative health professions education programs;

"(B) in the case of grants to improve educational services—

"(i) developing innovative education programs and expanding curriculum offerings;

"(ii) providing continuing education to all members of the community;

"(iii) providing the means for libraries of educational institutions or public libraries to share resources;

"(iv) providing the public with access to State and national data bases;

"(v) conducting town meetings; and

"(vi) covering meetings of agencies of State government; and

"(C) in all cases—

"(i) transmitting financial information; and

"(ii) such other related activities as the Administrator deems to be consistent with the purposes of this chapter.

"(2) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this chapter may be used to acquire interactive telecommunications end user equipment.

"(3) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this chapter may be used to employ or contract with any consultant or similar person.

"(4) PROHIBITIONS.—Grants made under this chapter may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications service for hire.

"(g) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) GRANTS TO IMPROVE RURAL HEALTH CARE SERVICES.—For grants under this chapter to improve health care services, there are authorized to be appropriated to the Administrator not to exceed $30,000,000 for each fiscal year.

"(2) GRANTS TO IMPROVE RURAL EDUCATIONAL SERVICES.—For grants under this chapter to improve educational services, there are authorized to be appropriated to the Administrator not to exceed $20,000,000 for each fiscal year.

"(3) AVAILABILITY OF FUNDS.—Sums appropriated pursuant to this subsection are authorized to remain available until expended.".

(c) ELIMINATION OF PREFERENCE FOR RURAL TELEPHONE BANK LOANS FOR BORROWERS LOCATED IN STATES WITH PLANS FOR UPGRADING RURAL TELECOMMUNICATIONS INFRASTRUCTURE.—Section 408(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(2)) is amended by inserting "which is not located in a qualified State (as defined in section 2338(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990)" after "any borrower".

SEC. 6. INCREASE IN LIMITATION ON POPULATION OF RURAL AREAS FOR PURPOSES OF TELEPHONE LOANS.

(a) IN GENERAL.—Section 203(b) of the Rural Electrification Act of 1936 (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "10,000".

(b) CONFORMING AMENDMENT.—Section 13 of such Act (7 U.S.C. 913) is amended by inserting "(except in title II)" before "shall be deemed to mean any area".

SEC. 7. SENSE OF THE CONGRESS.

It is the sense of the Congress that persons who are eligible for telephone loans under the Rural Electrification Act of 1936 and are interested in upgrading telecommunications in rural areas should obtain financial assistance under such Act through a subsidiary in order to limit the assets subject to the lien requirements of such Act.

SEC. 8. REGULATIONS.

Within 180 days after the date of the enactment of this Act, the Administrator of the Rural Electrification Administration and the Governor of the Rural Telephone Bank shall prescribe such regulations as may be necessary to carry out the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. PORTER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PORTER. Mr. Speaker, is either one of the gentlemen opposed to the bill? If not, I am opposed to the bill, and would like to claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PORTER] will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the time allotted to me be divided in half with the gentleman from Missouri [Mr. COLEMAN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5237, and tell our distinguished colleagues in this House that this is a continued commitment to rural America and the needs of rural America. It is in fact committing us to further enhance and improve life in rural America with everything that it entails, from jobs, from homes, for roads, for schools, for health care, for all the family values that we cherish. This is another small item in trying to enhance all of those areas for those that live in rural America and produce basically all our food and fiber.

Mr. Speaker, I rise in support of H.R. 5237, and recommend its adoption by the Members of the House. This legislation, which was approved by the Committee on Agriculture on June 25, has two main purposes which I would like to briefly describe.

The first purpose of H.R. 5237 is to allow prepayment of outstanding indebtedness by Rural Electrification Administration [REA] borrowers.

This provision will simply allow local rural electric coperatives the option of

prepaying their REA loan. This will serve to reduce the Federal Government's exposure to future repayment risk and free the cooperative from the rules and regulations of the REA.

Perhaps, more importantly, at a time when we have a 2-year-long waiting list of requests for REA loans, we should allow financially healthy REA borrowers to prepay their loans so that other, more needy cooperatives will have greater access to the REA program.

An REA prepayment program has been authorized before, primarily in reconciliation legislation. However the prepayment provisions of H.R. 5237 are different from past prepayment programs. The bill authorizes prepayments based on the present value of the debt owed to the Government, discounted from the face value of the debt at a discount rate equal to the cost of funds to the Treasury.

Cooperatives prepaying their debt to the Federal Government under this program will be ineligible to apply for futher REA program loans for 5 years following the prepayment. This prepayment program will result in no cost to the Federal Government. I repeat, both the Congressional Budget Office and the Office of the Management and Budget report that the prepayment provision in H.R 5237 will not incur any cost to the Federal Government.

The second purpose of H.R. 5237 is to promote interactive telecommunications systems in rural areas.

This provision, first proposed in H.R. 5238, a bill introduced by Subcommittee Chairman GLENN ENGLISH, would require the Administrator of REA to establish a grant program to help eligible States implement interactive telecommunications systems for improving health care and educational services in rural areas. A State would qualify by establishing a program meeting the criteria outlined in the bill, thus ensuring a long-term program targeted to the health and educational needs of rural areas of the State.

The need for this grant program is obvious, A growing number of residents in remote rural areas lack access to many educational and medical information technologies taken for granted by urban citizens. Many rural areas simply do not have the telecommunications infrastructure urban areas enjoy. This legislation is a modest attempt to encourage the upgrading of rural telecommunications infrastructure and better meet the informational needs of our rural citizens.

Mr. Speaker, I would like to take this opportunity to commend and compliment Congressman ENGLISH, who serves as the chairman of our Subcommittee on Conservation, Credit and Rural Development, for proposing this legislation and guiding it through the markup process.

Several changes have been made in this legislation to address various jurisdictional and budget concerns.

As introduced, section 4 of H.R. 5237 would have amended the credit reform provisions of the Congressional Budget Act of 1974, an issue within the jurisdiction of the Committee on Government Operations. The Committee on Agriculture has deleted this provision, and I want to express my appreciation to Chairman CONYERS of the Committee on Government Operations for his cooperation in helping us clear this bill for floor consideration.

In addition, H.R. 5237, as reported out by the Committee on Agriculture, contained a section regarding REA lien accommodations. This provision has been stricken from the legislation before us today due to its direct spending and pay-as-you-go implications. Let me state again, the lien accommodation provision has been stricken entirely from this bill.

I would like to thank Chairman PANETTA of the Committee on Budget and Budget Committee staff on both sides of the aisle for their assistance in addressing the budget implications of the Committee-reported bill. I am pleased to report that both the Congressional Budget Office and the Office of Management and Budget agree the cost of the bill before us is zero.

Mr. Speaker, I am pleased to bring this legislation to the floor today. This legislation prudently continues and expands our Nation's commitment to improving life in rural America at no direct cost to the taxpayer. I urge my colleagues to support the passage of H.R. 5237.

Mr. Speaker, I yield 8 minutes to the gentleman from Oklahoma [Mr. ENGLISH], the distinguished chairman of the subcommittee, who has done yeoman work in this endeavor.

Mr. ENGLISH. Mr. Speaker, I am very pleased to speak on behalf of H.R. 5237, the Rural Electrification Administration Improvement Act of 1992, and specificially H.R. 5237 would amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone services in rural areas and to establish a grant program to improve the provisions of health care and educational services in rural America by enabling providers of such services to obtain access to modern interactive telecommunications systems.

Mr. Speaker, we had heard recently from three studies, one conducted by the Office of Technology Assessment, one by the Aspen Institute, and one back in 1988 by the Department of Commerce. All three of these studies tell us that unless we modernize and improve the telecommunications systems of rural communities, that those communities are doomed. That is a very sad fact of life.

Economic development in rural communities is tied directly to the communications systems of these rural communities, so what this legislation does is that it takes a page from those studies and recognizes the importance of improving telecommunications systems in all of our rural communities.

We have had some communities that have advanced new, modern systems. We can see what tremendous benefits they bring to those communities and to the people who live in them. I speak, for instance, in my own district, in the Panhandle of Oklahoma, of an experiment that has been underway with fiber optic systems and with digital switching. The fiber optic systems in those rural communities have tied together a number of rural schools.

This allows those rural schools to share teachers, and those teachers will be able to utilize those facilities, see the students in several different school systems separated by numerous miles, and be able to teach each of those students as if those students were in their own classroom. It is a two-way exchange. The students not only see the teacher, the teacher sees the students. The teacher is able to communicate as if those students were in that classroom.

There are great savings not only to the local community and to the State, but certainly there is a great savings as far as the young people themselves and being able to remain in their local communities to be able to have the opportunity to go to school systems that, quite frankly, might not be able to deliver the same quality of education that they are able to do today.

This is something that we would like to see expanded throughout the Nation, to bring those savings to rural schools and to taxpayers in virtually every State, to put ourselves in a position that the quality of education in rural communities can be improved.

Certainly the same is true as far as health care is concerned. We have many of our rural communities today whose rural hospitals are in trouble. Many are closing. They are unable to provide the kind of expertise that is necessary by the people who are living in those communities.

In Lubbock, TX, we have found that at Texas Tech, through an experimental program in their hospital there, they have linked up rural hospitals with the specialists at Texas Tech. They are able to deliver medical services to those rural hospitals in a way that simply was not dreamed of just a few short years ago.

This has worked extremely well for the people in those rural communities, as well as for the use of the specialists' time. The quality of health care that is being delivered means that more people are staying at home instead of traveling to urban areas over several miles and having to utilize urban facilities. Those rural hospitals today are full of patients, when most of our rural hospitals are going wanting. Again, it is a better utilization of the taxpayers' dollars, better utilization of our rural

communities, and gives new life to rural communities throughout this country.

Of course, what this means to businesses in those communities, it brings new life, new opportunities, and we feel that this is vital to the development of rural communities throughout this Nation.

The Rural Electrification Administration Improvement Act of 1992 is just that—an improvement. This bill is about improvement of rural America—improvement in the quality of lives through health and education and a technical improvement in providing access to the private money market for REA borrowers who so chose.

Many believe that REA has completed its job because rural America has electricity and telephone service. However, should Congress walk away from one of the greatest success stories in modern history? That is what some would propose. Does it make sense to no longer provide funding for the Interstate Highway System because it is complete? Does it make sense to abandon the Mass Transit System in large cities because the cities now have buses? Nonsense. For the same reason, it does not make any sense to abandon REA because rural areas now have electric and telephone service.

In fact, it is even more important today that Congress participate in this partnership with American business to provide an adequate infrastructure for our Nation. The decline in economic vitality in rural America has made it difficult for many of these rural communities to maintain an infrastructure necessary for commerce and to ensure that their citizens have access to basic services, such as health care and education.

Rural America has arrived at a critical juncture. There has been a mass exodus of over 5 million rural residents during the last decade. The 1970's saw the number of persons living on farms in the United States decline by 25 percent. A recent report by the Department of Agriculture's Economic Research Service and the Department of Commerce's Bureau of the Census estimates that a further drop of 24 percent in the country's farm population occurred in the 1980's. This results in overcrowding in the urban centers, placing stress on the urban educational and health services. This bill will help to relieve this population loss and in turn will help all of America—rural and urban.

With the 21st century fast approaching, the choice can only be one that creates opportunity for growth and an incentive to invest in a new generation of rural Americans. Revamping the basic components of rural America's infrastructure will be the wisest investment toward a more viable and prosperous future for all Americans.

Now, let me speak on some of the specific provisions of the bill.

First, there is no cost to this legislation. The provisions which were scored by the Congressional Budget Office and the Office of Management and Budget have been stripped out of this version of the bill.

Because previously identified provisions were stripped from the legislation, Congressional Budget Office [CBO] has issued a letter, and I quote:

Because the proposed version of the bill for consideration on the House floor does not contain those lien assistant provisions, the bill would not affect direct spending or receipts. Thus, pay-as-you-go procedures would not apply to the amended bill.

Further, the only cost provisions identified by the Office of Management and Budget [OMB] were these same provisions which were removed.

Second, it puts to better use some practical and cost effective educational and health programs through telecommunication links between urban and rural schools or hospitals. This visual and vocal two-way communication has been proven in pilot projects throughout the United States as being cost effective.

This two-way interactive communication has been endorsed and strongly recommended for implementation in various reports from the U.S. Department of Commerce, the Office of Technology Assessment, and the Aspen Institute.

Third, it shares limited health and education resources. This two-way interactive telecommunication enables rural schools and hospitals to share personnel, expertise, and talent in providing better use of limited local monetary resources.

Fourth, it requires State participation. In order for a State to participate in the program, the State must submit a plan to the Rural Electrification Administration to modernize its rural telecommunications facilities to ensure that it is capable of providing this link.

This bill also requires that the State match the Federal funds in a 80/20 ratio.

Fifth, it allows Rural Electric Cooperatives [REC's] to repay loans at cost to the Treasury in order to relieve current program backlog and allow entry into the private loan market.

Sixth, it was unanimously passed by the Committee on Agriculture.

For all of these above reasons, I ask for my colleagues support for H.R. 5237.

□ 1950

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation would increase the population size of eligible cities, villages, or boroughs from 1,500 to 10,000 people and, Mr. Speaker, that would make Palm Beach, FL, Falls Church, VA, and even Rancho Mirage, CA possible recipients of REA assistance. These are hardly rural America.

The population base would increase from 5.6 million people served to 45.4 million people, an enormous expansion of the REA reach.

The legislation would also allow borrowers who took advantage of the opportunity to prepay their loans at great discounts to reenter the system after waiting for a period of years. In a letter from Secretary of Agriculture Ed Madigan to the distinguished chairman of the Agriculture Committee, the Secretary notes that in 1987, "electric and telephone loan program borrowers prepaid $727 million of outstanding REA direct loans," those are low-cost 2 percent and 5 percent interest loans, "for $427 million, thereby receiving a discount of $299 million on the deal."

Prepaying borrowers were also given a special Federal income tax break. This arrangement was made with the understanding that the borrowers would not return to the REA system, but this legislation, Mr. Speaker, makes these same borrowers eligible again for more taxpayer-assisted and subsidized REA loans without having to first or ever pay back the benefits they have already received.

This is a direct giveaway of tax dollars to private interests of about $350 million.

Mr. Speaker, this bill would also authorize a new $50 million grant program for high-tech telecommunications equipment for medical and educational organizations, and that duplicates other Federal programs already in existence such as the Rural Development Administration.

Mr. Speaker, the legislation also includes language which would hold harmless distribution borrowers responsible for the financial problems of their system's generation and transmission plants of which they are voting members of the board of directors. The provision would obligate the agency to continue lending to the distribution borrowers, whether or not a GNT REA debt is being repaid. This provision highlights one particular State where the GNT in bankruptcy litigation owes the Government over $1.1 billion.

This legislation, if enacted with this provision, could weaken the Government's case and set a dangerous precedent for future situations. Other situations already exist in Indiana, in Arizona, and Louisiana, and the cost is estimated to the Government at perhaps $150 million or more.

Mr. Speaker, nearly 100 percent of all farms in rural areas now have reliable electric and telephone service at reasonable rates. REA electric and telephone utilities are by and large financially successful and stable and able to borrow in the private credit markets. Some are now large billion-dollar corporations that serve suburban areas.

REA lending has been heavily subsidized at a great cost to the taxpayer. This bill undermines the transition to private credit from Federal subsidies by financially strong borrowers. It increases the number of eligible borrowers, the amount of Federal subsidies to borrowers, the budget cost and borrowers' reliance on REA. This is another prime example, Mr. Speaker, of an originally highly needed and effective Federal program in 1936 that continues to live long after its objectives have been achieved. It gives private industry highly subsidized loans paid for by the taxpayers, and it undermines private credit markets.

The bill gives REA new and expanded life when we should instead be phasing the agency out. I would urge Members to oppose this unwise legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I thank the gentleman for yielding the time to me, and I rise to enter into a colloquy with the chairman of the subcommittee.

I say to the gentleman from Oklahoma [Mr. ENGLISH] the subcommittee chairman that the section of H.R. 5237 that addresses prepayment of REA loans by distribution borrowers is very important to the rural electric consumers in my district and in my State. It is my understanding that this provision is at no cost to the Federal Government. Is that also your understanding, I ask the gentleman from Oklahoma?

Mr. ENGLISH. If the gentlewoman will yield, yes, I agree that this section has no budgetary impact. In fact, in a hearing which I chaired on June 2, 1992, concerning this legislation, the gentlewoman from Indiana questioned then-acting REA Administrator Michael Liu on this very issue. And the Administrator's response was, and let me quote, "If the rate is at the cost of money to the Treasury at the discount for that specific portion, there would not be a budget impact."

Ms. LONG. I also have in front of me a letter concerning this legislation from the Congressional Budget Office dated July 23, 1992 that states "CBO also estimates no budgetary impact for the bill's provision related to discounted prepayments of certain REA loans."

Mr. Speaker, I also want to have verified for the Record that this legislation in no way allows distribution coops to get out of any other obligations that they have with the Federal Government, and that this provision has nothing to do with any ongoing or future litigation between the Justice Department and any REA borrower.

Mr. ENGLISH. This is correct. I might add, and I know the gentlewoman joins me in saying that we encourage the Justice Department to use all proper legal efforts to recoup any financial obligations to the Federal Government.

Ms. LONG. I thank the subcommittee chairman for clarifying these important points, for bringing the bill to the floor today, and I urge my colleagues to support the bill.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in support of the bill for the purposes that the gentleman from Illinois has talked about, and that is reducing the size of the program.

Most people understand the role of the rural electric, and that is to provide power to areas of low density. Most areas are now served, but indeed there are many of these member-owned systems that still serve very low-density areas. In my State some as low as three users per mile. So there is a great difference in the systems, some more prosperous than others.

Many of us would like to see these loans be made on a more selective basis, and I agree with that. The purpose of this bill is designed to provide that opportunity for those systems to buy out their loans, to get their loans through the private sector, through CFC or other sources of credit. The bill was designed to give a loan accommodation. And I am sorry that has not continued to be a part of the bill in that that makes it possible for these systems to borrow money from outside with the loan accommodation to the rural electric loans.

OMB, for reasons that I do not understand, has long been opposed to the notion of selling out these loans, letting them buy them at a discount, and at the same time wishing that the program would get smaller. It seems to me that those are conflicting views, and if indeed, as has been the case in the past, the rural electrics have bought out their loans, have financed them in the private sector, and I favor that, and that is the design and the objective of this bill.

So Mr. Speaker, I urge my fellow Members to support this bill and to provide this opportunity.

Mr. PORTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SANTORUM].

Mr. Speaker, I thank the gentleman for yielding me the time.

I would say to the gentleman from Wyoming that if he wants to make the program smaller that I would not allow the 50 people who have sold out their loans 5 years ago back into the program. I mean, if your intent is really honest in reducing this program, you do not do what this bill is going to do for some future people to allow them to discount their loans, to get out, and then subsequently after they have gotten out let them back in for more money at subsidized rates. So I think there is a bit of disingenuousness here when we talk about reducing the size of the program when in fact we are letting people who have already supposedly healthy companies that already have gotten out to then come back in.

□ 2000

The point that I want to make, and I want to commend the gentleman from Illinois for his fine statement in attacking point by point. The point that I just have to scratch my head about, and I would say to the chairman of the Committee on Agriculture, I am concerned about rural America. I think we need to help rural America as we do need to help urban America and all America.

What we have done, I think, with rural electric and particularly this bill is taken out a nuclear bomb when a BB gun is needed.

What we have not done is show where the priorities are in rural America, where the help is really needed, and gone after and tried to help those. What we have done is opened it up to Palm Beach, FL, and Falls Church, VA, and the list goes on.

In particular, the bill expands eligibility for telephone loans to small cities by making communities of 10,000 eligible for rural electric loans. This is a program that was just written up, these telephone loans, just written up in the Wall Street Journal about a year ago.

Let me read some of the telephone companies that have been operating under this rural electric provision, and now we want to expand this program. This is from a May 23, 1991, Wall Street Journal article, and it talks about:

Dell Telephone Cooperative Inc., and REA borrower in remote West Texas, is still "struggling," its manager says, to keep 772 customers in 10,500 square miles of "cactus, rattlesnakes and scorpions" in touch with the Information Age. To hear June Barker, its assistant manager, tell it, though, she has a bigger challenge: how to invest the little co-op's mounting pile of cash—$5.8 million, at last report. I am trying to keep it local, but there isn't enough banks in my local community to invest it in.

And it goes on to say:

Lured by the riches, big telephone holding companies are swallowing up many of their plump little country cousins. In the past three years, they have taken over more than 50 phone companies—and happily taken on their low-interest REA debts while going back for more. Last year, $183 million in REA telephone loans, almost half the total, were captured by just five companies, including four listed on the New York Stock Exchange.

This is hardly pinpointing problems in rural America.

Telecommunications giant GTE Corp., for example, borrowed $42 million at 5 percent interest for its Micronesian subsidiary in the South Pacific—even though GTE wound up with $431 million in cash on hand after paying out $1.1 billion in 1990 dividends.

The story continues:

In West Texas, Dell Telephone borrowed $703,000 at 5% interest two years ago to bring radio-telephone service to an isolated reach of the Rio Grande Valley. One new customer: a 103-year-old woman rancher. At the time, Dell had a hoard of $5.6 million in cash—$7,200 per customer.

Yet, they were able to go out and borrow $703,000 at 5 percent interest.

And it goes on, and it says:

Few REA borrowers can match Guadalupe Valley Telephone Cooperative Inc., which still owes the government $5.4 million, for entrepreneurial verve and grandiose ambition. It has flourished without raising its local rate of $7.25 a month in 18 years, as commuters from growing San Antonio

moved into the goat pastures and live-oak groves in the central-Texas Hill Country.

Toll revenues have so enriched Guadalupe that its money managers must be on guard—against making too much money on investments. Otherwise, Guadalupe might, as a co-op, lose its tax-exempt status. At year end, its portfolio included $5.5 million in mortgage-backed securities and $3.4 million in bank deposits. To hold down taxable income, the managers put $6.7 million in tax-free bonds and stashed another $3.1 million in noninterest-bearing checking accounts.

I mean, these are the people we want to expand the program to. The story goes on and says that they tried to buy a failed savings and loan to hide some more of their assets some other places, but they could not do that. The regulators stopped them from doing that, so they had a fallback plan. Here is the fallback plan: They decided to share the wealth with the 15,000 member customers as never before.

Last year, it doled out $3 million in so-called patronage credits; one customer with multiple access lines reaped an $8,000 windfall. This year will bring a $4.5 million bonanza, which averages out to $300 per customer, more than enough to cover the basic monthly rate.

So these people are going to get money back from the phone company, and yet we are going to try to expand the loan program. Some people who seldom call long distance will dial for free. I mean, and this is the program that we want to expand in this country.

Many telecommunications holding companies are faring as well as Guadalupe, partly because their newly acquired subsidiaries remain eligible for REA credit under a once-a-borrower, always-a-borrower ruling.

Thus, we have Hilton Head, and places like Palm Beach and places like Manassas and Falls Church who, once they qualified 50 years ago, when they were rural areas, can continue to have the money come raking on in at very low interest.

The last half of the 1980s was a period of booming profits for holding companies, an REA analysis shows. Century Telephone's profits shot up 117% between 1985 and 1989, and Telephone & Data Systems posted a 93% increase. Thanks to REA subsidies, the holding companies, administration officials contend, are draining dollars out of rural America while saving on borrowing costs. In 1989 alone, the companies collected $439 million in dividends from their rural subsidiaries. GTE's Contel Corp. unit took $70 million out of a large California subsidiary.

This is a quote from the REA Administrator: "For every dollar we send to Main Street, these holding companies take $2.40 in dividends back to Wall Street." And we expand this program to include cities up to 10,000, and this game on Wall Street is going to continue.

This is a program that, as the gentleman from Illinois said, has outlived its livelihood in many, many ways. We need to narrow this program down. We need to focus in on where the problem is in rural America instead of doling out money, glad-handing through all of rural America.

That is only one of the provisions that we expand here. We asked for $50 million in grants to these same people. Now, these people that I have been describing here are going to be eligible for $50 million grants to improve access to telecommunications for health-care purposes.

Now, listen, I think people in rural America should have access to health care like anybody else, but the fact is that REA, as far as I know, and the gentleman can correct me, has never been a grant program. This is something brand new. And I will be happy to yield to the gentleman if he can tell me that it is. Is this a first-time grant? Have we ever given grants before?

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I am afraid the gentleman has gotten way, way off the beat. This goes to the schools and to the hospitals under the program, and it is a matching program with the States.

Mr. SANTORUM. It is only in areas where cooperatives exist?

Mr. ENGLISH. Wait a minute, let me finish my statement. This has nothing to do with the telephone companies. The telephone companies receive none of these funds. It is for the communities. That is basically who it is directed to.

Mr. SANTORUM. Who is it administered through?

Mr. ENGLISH. If I could, it would be administered through the same person the gentleman is talking about that he is quoting so much that he seems to have so much faith in; namely, the administrator. It works then with the local communities, and the States have to put up money, and it has nothing to do with telephone companies.

I know the gentleman is enjoying his oratory talking about beating up on telephone companies, but this has to do with rural communities.

Mr. SANTORUM. Reclaiming my time, I am not beating up on telephone companies. I commend these people. I think this is wonderful that they can run their programs so efficiently and effectively that they can save millions of dollars. What they should not be doing is coming back to Washington to help us subsidize their very grand scheme of squirreling money aside and giving money back to their consumers. They should be put on an even footing as the people in my district who pay very high telephone rates, and people in my district who pay the third highest utility charges than any utility in the country and are in one of the most depressed areas, the steel valley areas of Pittsburgh, who cannot get the manufacturing back into their districts, as I am sure the gentlewoman from Cleveland will tell you, cannot get them back here because of high utility rates and because of the problems that are facing us, and yet we are subsidizing all those plants moving south for lower utility rates subsidized by rural electric.

I just think, when it comes to this, and as I mentioned before, about letting people back into the system who were given the opportunity at a discounted rate to get out, because they, as the gentleman from Wyoming said, these were companies that have gotten big and made profits, and so according to the gentleman from Wyoming, they decided to buy out. Now we are going to let them come back in and get some more at the trough.

I just think, you know, this program has gotten out of hand. We need to focus our resources, and maybe some means-testing is necessary.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, let us try to get back to reality a little bit. If the people who are opposed to this legislation think rural America is like Palm Beach, FL, we have got an educational process that has broken down around here, because we are not talking about that. We are talking about the small towns in north Missouri that are going without.

I would invite both of these gentlemen to north Missouri. They want to talk about Palm Beach being eligible under this bill, well so will Trenton, so will Maryville, so will Albany, and he talks about the things that the urbanites do not get. I represent a district that is half urban-suburban and half small towns, so I can talk about both of them with some clarity and understanding, and when I make a call in Kansas City, 70 miles away into Kansas in the metropolitan area, I do not pay any fee or charge or additional toll.

□ 2010

But if you go up to Bethany, MO, in Harrison County and call 15 miles down the road to Albany, you pay a toll, because you are on a rural telephone system, and it probably will not be a private call, either. It will probably be multiparty, people listening in to your conversation because they do not have the ability like the other telephone companies to have single line service.

To hear the gentleman talk about this bill, you would think that the national debt would grow by the hundreds of billions of dollars. If I am not mistaken, the Office of Management and Budget has said that this bill costs nothing. If I am wrong about that, I hope the gentleman brings that out and shows me those CBO figures, because my understanding is that CBO has scored this as zero.

This is not Palm Beach, FL. This is depressed rural America that needs jobs and needs a telecommunications system that can bring it about.

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The gentleman from Oklahoma [Mr. ENGLISH] has cited the requirements. While we are proud of our educational system out in rural America, we know it can be improved. He is seeing firsthand what the university can do down in Oklahoma to provide foreign language programs not just to his State, but to other States around the rural areas, because they do not have the money to hire somebody to teach German or another foreign language, but they have got that at the university. They can put it on satellite. They can go through the telephone system, a whole lot of technology going on.

Talk about the rural hospitals, yes, we have rural hospitals. When we fought for so long to get equalization on reimbursement on Medicare, some of them can actually keep their doors open. It was not always that the rural hospitals got the same amount of reimbursement that the urban hospitals got on the same Federal program.

Now, was that fair when we had to compete with those same individuals or personnel and pay them to the urban hospitals?

The SPEAKER pro tempore (Mr. HUTTO). The time of the gentleman from Missouri has expired.

Mr. COLEMAN of Missouri. I yield myself 1 additional minute.

Our rural hospitals need better equipment and better telecommunications systems. We are talking about lifesaving equipment.

Now, maybe some people can get up and make fun about that. They can go down and belittle the program that has brought telephones and communications to people whose lives are probably not just enriched every day, but probably saved every day.

We can always talk about the exceptions. We can get the Wall Street Journal articles. I bet I could get an article on every program the Federal Government has and make it look foolish.

We are talking about the broad brush of things here on what we are trying to accomplish.

Every program we have in the Federal Government can be improved upon. We need to improve the programs, but I do not think making generalized statements and extracting and extrapolating, using these code words, Palm Beach. What do we connote with Palm Beach? If I said Carrollton, would anybody think what that would be? It is the county seat of Carroll County in northwest Missouri.

So let us get on with the business. I support this bill.

Mr. PORTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I would say to the gentleman from Missouri, if he would listen to my comments, my comments were not damning the entire program. My comments were that there is obviously a need for reform. There is nothing in this bill that does anything about reform. In fact, it goes the other way. It expands the program.

What we need to do here is to start narrowing the focus of the program to hit the Carrolltons, to hit the areas that are really hurting.

We used Palm Beach, and I apologize if that was a code word. It was a code word that was unknown to me before I got up here.

But what I will say is that there are a lot of communities who could qualify under this program who are not in need of the program, but yet can get in the queue just like everybody else and try to get money at the trough. That is what I am saying, if we are going to expand this program, which may be necessary in the form of hospitals and may be necessary in the form of communications, we should do so in a way that we target the areas of need. We do not have the money and resources, No. 1, to do it any other way.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. PORTER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. If the problem is, as many times it is said, that we are squeezing out the Carrolltons and the areas that are really in trouble by allowing these big corporations and other very healthy REA places to get in there and get these loans, then the problem is one that needs to be addressed, and that is all I was saying to the gentleman.

There is nothing in this legislation that I can see that addresses that problem.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Speaker, the gentleman again is in error in what he is saying. I just want to state that flat out.

The point, No. 1, the prepayment provisions are exactly that, to give people the opportunity to pay off their loans and get out of the program.

Mr. SANTORUM. And let them back in again.

Mr. ENGLISH. Mr. Speaker, if the gentleman will let me continue, that is exactly what the gentleman says that he wants to do. That is fine.

The second thing, as far as anyone coming back in, one of the requirements for them to come in is every dollar of cost there is to the Federal Government, the cost to the Federal Government for getting out and trying to come back in, those people have to pay.

Mr. SANTORUM. I have an administration policy letter that says in fact the cost of letting these people out was $299 million and that cost today if they were to pay back the undiscounted portion would be roughly $350 million. Those are the figures I have.

Mr. ENGLISH. The prepayment provision, it states in there, the cost to the Department of the Treasury, that is what we are costing, whatever it costs the Treasury for these people whenever they prepay and get out, for them to come back in, that is what they are going to have to pay. It is a penalty for them. They go to the very bottom of the list. I doubt there will be many that will want to do it, to be honest with you. There were 30, not 50.

Mr. SANTORUM. Those are numbers we have from the administration, and that is one of the reasons the Administration is opposing this program, because these people were supposed to be out permanently. That was the deal.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. ENGLISH] has 1 minute remaining, and the gentleman from Missouri [Mr. COLEMAN] has 4 minutes remaining.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes, if the gentleman needs it, to the gentleman from Oklahoma [Mr. ENGLISH].

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. ENGLISH] is recognized for a total of 4 minutes.

Mr. ENGLISH. Mr. Speaker, to try to put this back into perspective, the gentleman from Pennsylvania talked a good deal about large companies cash on hand, and things of that sort. One year ago we heard reports along those leins. In fact, the very Wall Street Journal that the gentleman referred to caused this subcommittee, the subcommittee that I chair to have a hearing. We brought the Administrator up. We asked him about excessive funds. We asked him to identify those companies with excessive funds. He could not do it, or did not do it or would not do it, for whatever reason. That is Mr. Burns, the gentleman that was being quoted.

We asked the General Accounting Office to conduct a survey to identify, if they could, companies that had excessive funds, or why they had large amounts of funds on hand. They conducted their survey and reported back to us. The companies that they surveyed, and they took those with the largest amounts on hand, they could not identify a single one that they said had excessive funds.

Do you know why they had funds on hand? Some were beginning projects. They were just beginning to build projects.

Others felt that the program was going to be shut down and they were saving up their money because they felt they were desperately going to need it in the future.

We had many who had conservative boards; but of the kind of extreme situations the gentleman is referring to, we did not get any of those kinds of reports from the General Accounting Of-

fice, and no abuse in those particular areas.

As far as any grants are concerned, that is subject to appropriations and that goes directly to the communities that are involved, to the hospitals and to the schools that would be involved, none here.

The program itself, let me say, the gentleman referred to some of the other programs we have in the Federal Government. This program since it has been in for the telephone companies, and that is what the gentleman was making reference to, since 1949 there has not been a single one of those loans go bad, not a single one.

Would we not like to see that kind of record for much of the other borrowing that is taking place in the Federal Government?

And let me say with regard to subsidies, and that is really the only thing we are talking about. It is my understanding that the subsidy for the telephone program is something like $7 million a year.

Now, when we start looking at some of the utilities in the urban areas, and the gentleman was talking about utilities, I just kind of wonder how many tax breaks do we have going to those utilities as opposed to some of these small programs aimed at rural America, trying to benefit rural America.

Maybe the gentleman would do far better if he is interested in saving money or certainly protecting the taxpayer if he looked at some of the other programs, those that hit some of the more urban areas of this country.

I really find difficulty in understanding why the gentleman wants to destroy a program that has been successful, a program that we are simply trying to expand to bring better health care and better education to the rural communities of this country, one that is costing $7 million.

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Does that really justify all the blunderbuss that we heard today against this program? You know, let us face it, philosophically the gentleman is opposed to the program. Philosophically, the administration is opposed to the program. They have told us that privately. There is not really a cost here, they are just opposed to the program. They do not like it, they do not want it expanded.

So let us come out and talk about it in reality. But we think both Democrats and Republicans in the House Agriculture Committee which represent rural areas, we think rural America should have a chance, we think that our rural schools and rural hospitals should have some level that is comparable to the urban areas. We think you ought to be able to hook up a fax machine, as far as some of the rural areas of this country are concerned. Certainly we think we should be able to have a 9–1–1 service in some of the rural communities and be able to have credit card verification.

You know, right now about all we have got is an Andy Griffith party line, and you are trying to tell us that we should not be able to improve it. I think that is sad, Mr. Speaker.

Mr. PORTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I would say to the gentleman that, No. 1, I appreciate his stating that this bill does expand the program, as he said in his closing remarks. It does expand the program, No. 1.

No. 2, if it is so lucrative to run a private utility, then why are not the REA people getting off and doing the same thing as the private utility companies are doing? If the breaks are that good for private utilities, then why do they not just classify themselves as a private utility and do that?

The problem is the breaks are not as good as they are with the private utility. Two-percent loans and 5-percent loans are unheard of for a lot of these private companies.

The point is this is a program that has gone wild in a lot of areas that do not need this kind of subsidy.

All I am trying to do—I am concerned about those people who decide to live hundreds of miles from civilization and have to use a party line. I am sorry if they have to use a party line, if they choose to live a hundred miles away from technology because they want to get away from it. They should not come to the Federal Government complaining about having no technology there.

So I mean there is a point where this becomes a little bit ridiculous.

So my sense is that as long as we are cleaning up some basic standards for these people, No. 1, and No. 2, we are taking and targeting the poor areas, that is what we need to be doing.

Mr. PORTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me say we are not opposed to rural areas of our country having the opportunity for electric or telephone service. The question is who is going to pay for it? Not whether they should have it or not. This program is in existence since 1936, 56 years ago. One hundred percent of all farms in rural areas have adequate, reliable electric and telephone service. How long do we continue to pay these subsidies? Can we afford a $50 million program for any program for any purpose. I am an appropriator.

The answer to that is I do not think so. If you are telling me this costs $7 million a year, I will tell you it costs billions of dollars per year for the appropriation for the REA. It is not a small program, it is a huge program.

Finally, let me say that, sure, 2-percent loans do not go bad. Who would let a 2-percent loan go bad? Obviously, they are extremely desirable in a time of high interest rates.

Finally, Mr. Speaker, I believe that the Department of Agriculture will recommend to the administration that if this bill is adopted, that it be vetoed by the President.

Mr. COLEMAN of Missouri. Mr. Speaker, I would yield myself the balance of my time just to say for the record that rural areas, please include us in civilization. You know, if we live 100 miles from a city, you are not civilized? That is not right. I do not think the gentleman really meant to say that. Maybe he does; let him say it.

He would be awfully wrong if he did. If he intended to say that people who do not live in urban areas are not civilized, that is.

The point of the matter is that we have a philosophical difference here. I can appreciate and understand why some people from the Chicago area and from other areas that do not have some rural communities and constituencies would not appreciate, understand, be aware of the needs that we feel exist.

Therefore, they have opposed the REA in the past, the same people who wanted to, I think, eliminate the whole program. It is not just this bill. It is a philosophical difference.

I do not have any time remaining, but I would like to thank the gentlemen who participated, because they had a good faith argument. But we have on our side, I think, truth and civilization is on our side.

Mr. DE LA GARZA. Mr. Speaker, in my remaining time I would like to say we cannot legislate from newspaper articles. We have to get the facts. We cannot use code words. We cannot say 2-percent loans when they are not making any 2-percent loans. The fact is that this program—and my distinguished colleague from Missouri [Mr. COLEMAN] very eloquently expressed it—it is a philosophical difference. But this great experiment was started, and it has worked, and it is still continuing to work. The unfortunate thing is that there is still need. There are in my congressional district places where they are without telephone, without power. Saying that, "There was an article that says that one company went astray and had some money," or did not have some money, that may well be true. We are not denying that there are or have been an abuse here or an abuse there. But the oversight continues, and the commitment continues, and this is our commitment to rural America.

Mr. SMITH of Oregon. Mr. Speaker, I rise to speak about H.R. 5237, the Rural Electrification Administration Act of 1992.

This legislation includes the original language of H.R. 5237 and H.R. 5238, the Revitalization of Health and Education in Rural America Act of 1992. H.R. 5237 contains a number of provisions suggested by the rural

electric and telephone cooperatives for Oregon and from across the Nation.

The bill language on lien accommodation was intended to provide incentives to electric borrowers to seek lending from alternative private sources, thus allowing greater use of increasingly-sought-after Rural Electrification Administration loan funds. However, due to budget scoring considerations, this provision has been deleted for the H.R. 5237.

Language was included that permits Rural Electrification administration borrowers to repay their REA loans at a discount based upon the current cost of money to the Federal Government. This will allow and encourage REA borrowers to sever their borrowing relationship with the Government and pursue funding in the private sector. These borrowers would not be allowed to seek REA loans for a 5-year period.

The committee has trimmed other provisions, such as the clarification of the treatment of rural telephone bank credit by removing from credit reform, simply because of cost consequences.

H.R. 5237 creates a new grant program, subject to appropriations, intended to utilize telecommunications technology to improve educational and health care services in our rural communities. During subcommittee consideration, we removed a provision that would have incurred additional spending by extending interest rate subsidies to borrowers participating in the program. Again, the committee has recognized its fiscal responsibility by foregoing this feature of the legislation.

Mr. Speaker, every effort has been made to streamline the original proposals that make up this bill and to minimize its costs. I urge each member to give H.R. 5237 thoughtful consideration.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 5237, the Rural Electrification Administration Improvement Act. This bill recognizes the immense value of telecommunications technology to rural health care providers and, most importantly, their patients.

The number one concern among my rural constitutes is access to affordable and complete health care. By providing grants designed to help rural health care providers "network" their telecommunications systems, this bill seeks to address both concerns.

By stimulating the "networking" of rural health care facilities, H.R. 5237 will promote cost-sharing among rural hospitals, community health centers, and tertiary care facilities. Most importantly, this bill will enable rural health care providers to have access to the latest in medical technology by linking these providers with the medical technology and health care providers from the larger metropolitan facilities.

Using the same method of providing a grant for several institutions to network their telecommunications systems, H.R. 5237 also will enable rural educational institutions to share library resources, utilize national and State databases, and greatly expand the students' choice of curriculums. With the help of these grants, for example, students at Tri-County Consolidated School near DeWitt, in Nebraska could read about international events in foreign periodicals, and through enhanced telecommunications, they could learn from the best scholars in all subjects.

Finally, Mr. Speaker, H.R. 5237 makes several important improvements to the Rural Electrification Act. By providing greater flexibility to rural electric cooperatives through lien accommodation and loan prepayment programs, this bill seeks to facilitate the transition of rural electric cooperatives from public to private financing. In addition, these improvements will help to ease the backlog in current REA loan applications by opening alternative avenues of financing.

Mr. Speaker, this Member supports the passage of H.R. 5237 and also encourages other Members to vote for this legislation.

Mr. GUNDERSON. Mr. Speaker, most Americans, no matter where they live, can get reasonably priced electric service because of the Rural Electrification Act of 1936. This is especially true in my home State, Wisconsin. The electric co-ops today have the responsibility for providing electric service to more than half of the State's rural population. As important as rural cooperatives are in providing power to agricultural, commercial, and recreational areas, they also contribute to the overall State economy as businesses in their own right. Last year Wisconsin rural electric cooperatives paid $3.9 million in total taxes and more than $10.7 million was paid out in interest.

While the Rural Electrification Program has been highly successful, the work is not completed. Each year, rural electric systems are required to borrow funds to make critical improvements and to expand their systems. Today we pass the Rural Electrification and Improvement Act designed to encourage investment in economic development and to eliminate barriers caused by the vastness of space and distance often associated with communities in rural areas.

This legislation includes a buyback provision which allows cooperatives to buy out their REA loans at a discounted rate. This will help cooperatives that are able and interested, to seek private sources at no cost to the Government. This provision would allow the highly successful Federal-private partnership already in place to run even better.

In addition, this legislation would establish a grant program to help rural communities modernize their telecommunication infrastructure by providing grants to qualified health and education consortia. These grants could be used for such beneficial projects as improving health care services, transmitting x rays and patient records, developing innovative education programs, and sharing library resources.

I plan to continue to work with the committee and the rural cooperatives to build on this legislation and explore ways to reduce barriers to access to private sources of credit and to streamline the accommodation review process.

Mr. MARLENEE. Mr. Speaker, I rise in support of H.R. 5237, the Rural Electrification Administration Improvement Act.

I can remember only too well the Dark Ages—the days before the REA brought electricity to the farm. I grew up in a small tarpaper shack in Daniels County not far from the Canadian border and how could I forget the day that they came to hook up our farm? Electricity was magic to those of us who grew up without it.

Rural America owes a lot to the REA's. No more use for a hand pump to bring cold water out of the ground to heat on the woodstove. No more need for those dangerous kerosene lanterns. No more need for batteries in the root cellar.

REA's continue to serve their communities well. In addition to affordable electricity, many of them now provide reliable telecommunications service.

In my State of Montana, there are 26 individual cooperatives serving nearly 100,000 rural Montanans. That's no small change. It accounts for over 10 percent of our State's population. Nationwide, 936 rural electric distribution systems across 75 percent of America's landmass directly serve 25 million Americans.

The fact is, rural America could not survive without the REA's. That is why I strongly support this bill.

H.R. 5237 helps put REA's on a level playing field with their counterparts. In simple terms, it allows them to do what any American is free to do: borrow money from the private sector.

By freeing cooperatives to obtain private financing if they so desire, other cooperatives who cannot afford private financing will have a better shot at REA loans. There exists right now a backlog of $745 million in insured electric loan applications. And a recent industry survey indicated that the demand for insured electric loans may increase by 18 percent next year.

These are loans that are vital to the future of REA's. Without them, rural development will be at risk.

The language in this bill is intended to lessen demand for REA loans by authorizing REA borrowers to pay off outstanding indebtedness on the condition they will not be eligible for further REA financing for 5 years.

Co-ops who prepay their loans will be able to do so at the same rate that Government pays.

Moreover, I point out that H.R. 5237 will be enacted at no cost to the taxpayer. Cost provisions have been stripped out of the bill.

H.R. 5237 also contains provisions that will enhance telecommunications in rural America, thereby boosting educational and health opportunities for these people. The bill allows telecommunication links between urban and rural schools or hospitals. Clearly, space and distance are two major barriers to modern health care and education opportunities in these areas. H.R. 5237 will help overcome those barriers.

REA's are one of America's greatest success stories and I urge my colleagues to help maintain that success by passage of this important legislation.

The SPEAKER pro tempore (Mr. HUTTO). All time has expired.

The question is on the motion offered by the gentleman from Texas [Mr. DE

LA GARZA] that the House suspend the rules and pass the bill, H.R. 5237, as amended.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill that was presently under consideration, H.R. 5237, and also on H.R. 4906 which was passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPORT-IMPORT BANK CHARTER RENEWAL ACT OF 1992

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States.

The Clerk read as follows:

H.R. 5739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export-Import Bank Charter Renewal Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—CHARTER RENEWAL

SEC. 101. DECLARATION OF POLICY.

The Congress finds that—

(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

(2) exports are a crucial force driving the United States economy;

(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to $421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

(4) exports also support the global strategic position of the United States;

(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from $9,700,000,000 to $12,100,000,000, the highest level since 1981;

(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters.

SEC. 102. EXTENSION OF AUTHORITY OF THE EXPORT-IMPORT BANK.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1992" and inserting "1997".

SEC. 103. REAUTHORIZATION OF THE TIED AID CREDIT FUND.

(a) REAUTHORIZATION.—Section 15(e)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)(1)) is amended by striking "and 1992" and inserting "through 1997".

(b) TECHNICAL CORRECTION.—Paragraph (7) of section 101(b) of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2494), and the amendment made thereby, are hereby repealed, and the Export-Import Bank Act of 1945 shall be applied and administered as if such paragraph had never been enacted.

SEC. 104. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY OF THE EXPORT-IMPORT BANK.

Section 7(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(1)) is amended by inserting "in fiscal year 1992, $45,833,333,333 in fiscal year 1993, $51,666,666,666 in fiscal year 1994, $57,500,000,000 in fiscal year 1995, $63,333,333,333 in fiscal year 1996, and $69,166,666,666 in fiscal year 1997" after "$40,000,000,000".

SEC. 105. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 106. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—The Export-Import Bank of the United States shall—

(1) not later than May 31 of each year, submit to the Congress a report on the relationship of export financing to the strategic position of the United States on exports of goods and services; and

(2) not later than June 30 of each year, appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives to testify on issues addressed in the report.

(b) CONTENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall address—

(A) the state of the competitiveness of United States export financing, focusing, in particular, on the efforts of the Bank and other United States export financing agencies;

(B) the implementation of the strategic plan developed by the Trade Promotion Coordinating Committee;

(C) other specific recommendations of the Bank to improve the United States balance of trade; and

(D) the adequacy of Government export financing programs and recommendations for improving such programs.

(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based on relevant reports and testimony produced by the Export-Import Bank of the United States or other agencies, but the policy views shall be those of the Bank.

SEC. 107. FINANCING AND MARKETING STUDY.

(a) FINANCING AND MARKETING COMMITTEE.—

(1) ESTABLISHMENT.—The Export-Import Bank of the United States, in consultation with the Secretary of the Treasury and other appropriate Federal departments and agencies, shall establish a committee to be known as the Financing and Marketing Committee (in this section referred to as the "Committee").

(2) MEMBERSHIP.—The Committee shall consist of the following members:

(A) The President and Chairman of the Bank, who shall be the chairperson of the Committee.

(B) 6 individuals appointed by the chairperson of the Committee from among representatives of depository institutions, State and local offices which promote trade and exports, senior executives of small private firms capable of exporting intangible goods and services, and consultants on export policies.

(3) PROHIBITION AGAINST COMPENSATION.—The members of the Committee may not receive compensation by reason of their service on the Committee.

(b) STUDY.—The Committee shall conduct a study designed to identify policies which, if implemented by the Export-Import Bank of the United States, would facilitate the export of intangible goods and services.

(c) REPORT.—

(1) IN GENERAL.—Before the end of the 2-year period beginning with the date of the enactment of this Act, the Committee shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study required by subsection (b).

(2) CONTENTS.—The report referred to in paragraph (1) shall include—

(A) an analysis and review of the foreign market potential for the products and services of United States high technology firms and other firms capable of exporting intangible goods and services;

(B) an analysis of the export financing needs of such firms;

(C) an identification and review of the practices used by commercial lenders to finance the sale of intangible goods and services in the United States;

(D) an identification and evaluation of the effectiveness of the programs of the member countries of the Organisation for Economic Cooperation and Development for financing the export of intangible goods and services;

(E) a review of the evaluation and lending guidelines of the Export-Import Bank to determine if the guidelines are appropriate for meeting the needs of such firms; and

(F) recommendations on how the Bank can market its assistance to such firms.

SEC. 108. ONE STOP FINANCING SHOPS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635-635i-4) is amended by adding at the end the following:

"SEC. 17. COOPERATION ON EXPORT FINANCING PROGRAMS.

"The Bank shall, subject to appropriate memoranda of understanding—

"(1) provide full and current information on all of its programs and financing practices to—

"(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

"(B) State and local export financing organizations that indicate a desire to participate in export promotion;

"(2) undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs; and

"(3) cooperate with the Small Business Administration, such other Federal agencies, and such State and local organizations in colocating personnel of such agencies and organizations at the same sites in offices throughout the country so that potential exporters may obtain, through a 'one-stop shop', working capital to produce products or services for export, and financing and insurance for the export of such products or services.".

SEC. 109. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) In the case of any long-term loan or guarantee of not less than $10,000,000, sought from or provided by the Bank in connection with the financing of an export to a foreign country, the Bank shall seek to ensure that the foreign country accords United States insurance companies a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) If the Bank becomes aware that a fair and open competitive opportunity is not available to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such a denial would be likely to insure that the foreign country accords fair and open competitive opportunities to United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and the United States Trade Representative for consideration of a recommendation to the President that access to export credit of the United States for such country should be restricted.

"(4) If the Bank approves a loan or guarantee notwithstanding information confirming denial of competitive opportunities for United States insurance companies, the Bank shall forward such information to the United States Trade Representative who shall include notice of such approval and the reason for such approval in the annual report on significant foreign barriers as required by section 181 of the Trade Act of 1974.

"(5) For purposes of this section:

"(A) The term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk under-written by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i).

"(B) The term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 110. CONDITIONAL ALLOWANCE OF ASSISTANCE FOR EXPORTS TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended—

(1) in paragraph (2)(B)(ii), by striking "People's Republic of Angola.";

(2) by striking paragraph (11) and redesignating paragraph (12) as paragraph (11); and

(3) in paragraph (11), as so redesignated, by striking "Notwithstanding any determination by the President under paragraph (2) or (11), the" and inserting "The".

TITLE II—OTHER PROVISIONS

SEC. 201. APPOINTMENT AND COMPENSATION OF BANK PERSONNEL.

Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by adding at the end the following:

"(9) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Board of Directors shall fix the compensation of, and appoint and direct, employees of the Bank other than the directors. The Board may set and adjust rates of basic pay for such employees without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Board of Directors may provide additional compensation and benefits to employees of the Bank if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency or, if not then being so provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Bank, the Board of Directors shall, in consultation with the Federal bank regulatory agencies, seek to maintain comparability with the total amount of compensation and benefits provided by such agencies to employees of such agencies, except that the Board shall not apply this sentence to reduce the total amount of compensation and benefits provided to any employee as of the date of the enactment of this paragraph.".

SEC. 202. INCREASE IN MEMBERSHIP OF ADVISORY COMMITTEE.

Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

SEC. 203. ELIMINATION OF LIMITATIONS ON FINANCING FOR EXPORTS TO THE SOVIET UNION.

Section 2(b)(2)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by striking "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).".

SEC. 204. FINANCING OF HIGH TECHNOLOGY EXPORTS TO EMERGING DEMOCRACIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

"(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology products and services to such countries.

"(ii) In exercising its authority, the Bank shall develop a program for providing loans, guarantees, and insurance with respect to the export of high technology products and services primarily to eligible East European countries (within the meaning of section 4 of the Support for Eastern European Democracy (SEED) Act of 1989).

"(iii) Up to $125,000,000 of the amounts available for the loan, guarantee, and insurance programs of the Bank may be used to carry out the program described in clause (ii).

"(iv) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall,

to the maximum extent practicable, inform high technology companies, particularly small business concerns (as defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology products and services to any eligible East European country (within the meaning of section 4 of the Support for Eastern European Democracy (SEED) Act of 1989).

"(v) In carrying out clause (iv), the Bank shall—

"(I) work with other agencies involved in export promotion and finance; and

"(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.".

SEC. 205. REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE SOVIET UNION AND ITS SUCCESSOR STATES, AND CENTRAL AND EASTERN EUROPE.

(a) FINDINGS.—The Congress finds that—

(1) United States export participation in the emerging markets in the former Soviet Union, central and eastern Europe, and the Baltic states holds definite potential for preserving and creating jobs in the United States and strengthening the competitiveness of United States exports;

(2) export assistance for United States goods destined for emerging republics is an investment in the development and establishment of their market economies, a critical element in maintaining existing United States businesses which export to the regions in which such republics are located, and a significant factor in the economic future of the United States and such republics;

(3) the Export-Import Bank of the United States has a unique opportunity to play a leading role in assisting United States exporters to participate in the rapidly changing and highly competitive markets in the former Soviet Union, central and eastern Europe, and the Baltic states;

(4) it is in the interest of the United States for the Export-Import Bank of the United States to—

(A) monitor carefully the export assistance programs and terms offered by foreign governments for competitive exports; and

(B) make every effort to offer United States business export assistance for transactions in the former Soviet Union, central and eastern Europe, and the Baltic states, that is comparable to the assistance being provided by other governments.

(b) REPORT.—Not later than December 31, 1992, the Export-Import Bank of the United States shall transmit to the Congress a report analyzing the present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic states, between the United States and the Soviet Union, and between the United States and central and eastern Europe, and shall make recommendations for the promotion of trade between the United States and such countries. As used in this section, the term "Soviet Union" includes all successor states (other than the Baltic states) to the Soviet Union.

SEC. 206. EXPORT-IMPORT BANK FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking "1992" and inserting "1994".

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of such Act (12 U.S.C. 635(b)(6)(D)(i)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) CONFORMING AMENDMENTS.—Section 2(b)(6) of such Act (12 U.S.C. 635(b)(6)) is amended—

(1) in subparagraph (A), by striking "and defense services" and all that follows through "progress" and inserting "or services to any country";

(2) in subparagraph (B)—

(A) by striking ", and section 32 of the Arms Export Control Act,";

(B) in clause (iii), by striking "481(h)(5)" and inserting "490(e)"; and

(C) in clause (v), by striking "and services" and inserting "or services";

(3) in subparagraph (C)(ii), by striking "defined in section 481(i)" and inserting "determined under section 490(h) or 481(e), as appropriate,";

(4) in subparagraph (D)(i)(III), as so redesignated by subsection (b) of this section, by striking "determination has" and inserting "determinations have";

(5) in subparagraph (D)(ii), by striking "sentence" and inserting "clause";

(6) in subparagraph (E), by striking "security assistance for purposes of section 502B" and inserting "assistance under the Foreign Assistance Act of 1961 for purposes of section 691(a)(2) of that Act"; and

(7) in subparagraph (G)—

(A) by striking "subparagraphs (B), (C), (D), and (F)" and inserting "this paragraph"; and

(B) by striking "and services" and inserting "or services".

(d) REPEAL.—Section 32 of the Arms Export Control Act (22 U.S.C. 2772) is repealed.

SEC. 207. GAO STUDY OF THE PARTICIPATION OF THE EXPORT-IMPORT BANK IN SALES OF DEFENSE ARTICLES AND SERVICES TO FOREIGN COUNTRIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the participation of the Export-Import Bank of the United States in financing sales of defense articles and services (as defined in section 2(b)(6)(F) of the Export-Import Bank Act of 1945) to foreign countries.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that—

(1) summarizes the participation referred to in subsection (a), including—

(A) participation that was approved by the Board of Directors of the Bank and the reasons therefor; and

(B) participation that was disapproved by the Board of Directors of the Bank and the reasons therefor;

(2) assesses whether (and, if so, the extent to which) the countries purchasing defense articles and services the financing of the sales of which was participated in by the Bank—

(A) failed to comply with the restrictions imposed by the United States on the end use of such defense articles and services; or

(B) used any such defense articles and services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(3) assesses the theoretical and practical, political and economic, pros and cons of such participation.

SEC. 208. STUDY ON COMPETITIVE EFFECTS OF REQUIRING EXPORTS FINANCED BY THE EXPORT-IMPORT BANK TO BE CARRIED ON UNITED STATES FLAGGED VESSELS.

Within 3 months after the date of the enactment of this Act, the Export-Import Bank of the United States shall prepare and submit to the Congress a report on the effects of the Act of March 26, 1934, (46 U.S.C. App. 1241–1; 48 Stat. 500), on the competitiveness of exports financed by the Bank, which, among other things, focuses on the following:

(1) The diversion of cargoes from ports where there are no vessels documented under the laws of the United States to ports where there are such vessels, and the costs of the diversion.

(2) The frequency with which exemption is provided, and the rationale for providing exemption, from the requirements of such section.

(3) The extent to which such requirements promote or impair the economic interests of the United States.

(4) The United States industries most affected and least affected by such requirements.

(5) The seasonal variations (if any) in the effects of such requirements.

(6) The variations (if any) in the effects of such requirements on the various regions of the United States.

(7) The time, money, and other resource costs involved in complying with, obtaining exemption from, and administering such requirements, including any price increases resulting directly from such costs.

(8) The extent to which such requirements have caused the mode of transportation of exports to shift from vessels documented in the United States to air carriers.

SEC. 209. ASSISTANCE FOR EXPORTS BY SMALL BUSINESSES.

(a) IN GENERAL.—Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by inserting "directly" after "exports".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 210. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments and repeal made by this title shall take effect on October 1, 1991.

TITLE III—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 301. PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean and economic growth through interrelated initiatives to promote debt reduction, investment reforms, trade liberalization, and community-based conservation and sustainable use of the environment.

SEC. 302. DEFINITIONS.

As used in this title:

(1) FACILITY.—The term "Facility" means the Enterprise for the Americas Facility.

(2) IMF.—The term "IMF" means the International Monetary Fund.

Subtitle A—Enterprise for the Americas Facility

SEC. 311. ESTABLISHMENT.

There is hereby established in the Department of the Treasury the Enterprise for the Americas Facility.

SEC. 312. PURPOSE.

The purpose of the Facility is to support the objectives described in section 301 through the administration of debt reduction operations for countries that meet investment reforms and other policy conditions.

SEC. 313. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits under the Facility, a country must—

(1) be a Latin American or Caribbean country;

(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(A) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

Subtitle B—Sales, Reductions, or Cancellations of Loans

SEC. 321. LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN EXPORT-IMPORT BANK LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this subtitle, sell to any eligible purchaser any loan or portion thereof made to any eligible country (as determined pursuant to section 313) or any agency thereof, before January 1, 1992, pursuant to the Export-Import Bank Act of 1945, and on receipt of payment from the eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(1) a debt-for-equity swap, debt-for-development swap, or debt-for-nature swap by an eligible purchaser; or

(2) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development through an Enterprise for the Americas Environmental Fund established under or consistent with section 608 of the Agricultural Trade Development and Assistance Act of 1954,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(b) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this subtitle.

(c) TREATMENT UNDER SECURITIES LAWS.—Any sale made pursuant to this subtitle by the Export-Import Bank of the United States of a loan (including any interest therein) to an eligible purchaser under section 324 shall be a transaction not required to be registered pursuant to section 5 of the Securities Act of 1933. For purposes of the Securities Act of 1933, the Export-Import Bank of the United States shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (include any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, debt-for-nature swap, or debt buyback.

(d) ADMINISTRATION.—The Facility shall notify the Export-Import Bank of the United States of purchasers the President has determined to be eligible under section 324, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(e) LIMITATIONS.—The authorities of this section may be exercised beginning in fiscal year 1992 and only to such extent as provided for in advance in appropriations Acts for fiscal year 1992 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

For the sale, reduction, and cancellation pursuant to section 321 of loans or portions thereof made pursuant to the Export-Import Bank Act of 1945, there are authorized to be appropriated to the President such sums as may be necessary, which shall remain available until expended.

SEC. 323. DEPOSIT OF PROCEEDS.

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this subtitle shall be deposited in the United States Government account or accounts established for the repayment of such loan.

SEC. 324. ELIGIBLE PURCHASER.

As used in this title, the term "eligible purchaser" means—

(1) in the case of the sale of a loan for the purpose of facilitating a transaction referred to in section 321(a)(1), a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in the transaction; and

(2) in the case of the sale of a loan for the purpose of facilitating a transaction described in section 321(a)(2) by an eligible country, the eligible country.

SEC. 325. DEBTOR CONSULTATION.

Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this subtitle of any loan made to an eligible country, the President shall consult with the country concerning, among other things, the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, debt-for-nature swaps, or debt buybacks.

Subtitle C—Reports and Consultations

SEC. 331. ANNUAL REPORT TO AND CONSULTATIONS WITH CONGRESS.

(a) ANNUAL REPORT.—Not later than December 31 of each year, the President shall transmit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the President of the Senate an annual report on the operation of the Facility for the prior fiscal year.

(b) CONSULTATIONS.—The President shall consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the President of the Senate on a periodic basis to review the operation of the Facility and the eligibility of countries for benefits under the Facility.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield 3 minutes for purposes of debate to the gentleman from Virginia [Mr. MORAN], a very fine Member.

Mr. MORAN. I thank the very thoughtful and considerate gentlewoman from Ohio.

Mr. Speaker, I rise in strong support of the Export-Import Bank charter renewal, brought to us by the very distinguished and capable chairwoman of the Subcommittee on International Development, Finance, Trade and Monetary Policy of the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, two considerations underlie the context for this legislation: First, we are in a prolonged recession; and, second, our economy has irretrievably become globalized. This is why we need this legislation.

Between 1985 and 1991, the dollar value of U.S. exports doubled from $219 to $421 billion. Since 1989, exports have accounted for up to 40 percent of our economic growth.

The Export-Import Bank has played a critical role in helping many U.S. firms compete and successfully sell their products and services abroad. In 1991 the value of the Eximbank-assisted exports rose 28.7 percent, from $9.7 to $12.1 billion.

□ 2030

This growth in exports translated into the creation of more than 40,000 new U.S. jobs for a total of more than 7 million full-time jobs attributable to exports. More jobs might have been created had this bank not exhausted its entire budget authority.

Mr. Speaker, we need to renew the Bank's charter. The fact is that today exports are an essential part of our national economy, and the Eximbank plays a very important role in exports financing.

I have an amendment included in this bill that will open up Eximbank financing to professional services and high technology products. These firms have experienced problems in securing Exim financing primarily because of the requirement for collateral that is geared toward tangible assets that heavy in-

dustrialized firms can more easily pledge. The amendment will set up a commission that will include representatives of the high tech community that is designed to address and rectify these obstacles to the exportation of emerging American technology.

Mr. Speaker, I strongly support and urge my colleagues to support the Eximbank charter renewal, and I thank the very kind, and considerate and capable chairwoman of our subcommittee, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation does propose, indeed, to renew the charter of the Export-Import Bank which is scheduled to expire this September 1992. Mr. Speaker, the whole thrust of this legislation is to ensure that our country is globally competitive so that we can keep up with the other world's financial tools that many countries have, and the Export-Import Bank is such a major tool of ours.

The administration communicated with the House and the Senate in April 1992 proposing that the Export-Import Bank charter be renewed for a period of 6 years. The subcommittee had a number of hearings, and we had terrific witnesses, and so, as a result of these hearings and the fact that we asked the General Accounting Office to study the issues relevant to charter renewal, and we received that GAO report at the various hearings, we also consulted with numerous associations related to business concerned with international finance and trade from the standpoint of large and small exporters, our exporters, our U.S. exporters, industry, labor, banking, insurance, State government, and nonprofit organizations, and what we found was that the exports are increasing rapidly. U.S. exports expanded from $277 billion in 1986 to $422 billion in 1991. That is an increase of 85.6 percent, and, according to the Export-Import Bank's 1991 annual report, these exports support at least 7 million jobs and a considerable proportion of U.S. economic growth.

For example, Mr. Speaker, I would like to use my own area as an example. In northeast Ohio Government agencies estimate that between 20 and 25 percent of manufacturing equipment is tied directly to export markets. Our State of Ohio, for example, ranks third in the value of exports nationally, and I am very, very proud to say that in calendar year 1991 the Export-Import Bank financed 165 million dollars' worth of Ohio-based exports.

And, Mr. Speaker, I want to use the example of the need that small businesses in particular, and larger businesses, have for the Export-Import Bank because there are some people in the past who have not seen the value of this wonderful financial tool. I want to use as an example one of the finest small business organizations in the country. It has 12,000 small businesses who are members. It is called COSE, and this particular organization is the Council of Smaller Enterprises in Cleveland, OH, and we received a letter from its executive director, John Polk, indicating how important this institution is to the export opportunities for our small businesses, and one of the things in the letter which I would like to submit for the RECORD, one of the things that the director reminds me of, is that one of the founding members of this organization, Margaret Kahliff, also served as one of the directors of the Export-Import Bank, and, when I was a newer Member of Congress a few years back, she was the one who visited my office and made me understand the importance of this Export-Import Bank. So, Mr. Speaker, I want to submit that for the RECORD.

The letter referred to is as follows:

COUNCIL OF SMALLER ENTERPRISES,
Cleveland, OH, August 4, 1992.

Hon. MARY ROSE OAKAR,
2231 Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN OAKAR: On behalf of COSE and our 12,000 small business members, let me express our strong support for H.R. 5739, which would renew the charter of the Export/Import Bank of the United States.

COSE has been a supporter of Ex/Im as a valuable tool in assisting small employers in gaining access to the international market, a vital effort if we are to reduce our trade deficit and strengthen our competitiveness in the world market. You are undoubtedly aware that Margaret Ware Kahliff, a founding member of the COSE Board, also served as a Director of the Ex/Im Bank.

We commend you for your leadership in seeking to re-authorize the Ex/Im Bank as a stronger institution, and one which will continue to support the internationalization of our small business community.

Sincerely,

JOHN J. POLK,
Executive Director.

Mr. Speaker, Margaret is now a resident of Elyria, OH, and she was one of the founding members of this great organization.

The other issue that I think is important is because we have heard this criticism: "Well, you know, it doesn't help small business as much as it should, and it gives, sometimes, to large corporations." I want to mention one large corporation that has taken advantage of the Export-Import Bank financing, and this is an organization that does not have its international headquarters in my district. I, frankly, wish it did, but I want to just use this as an example as to how this networks throughout the country and how it helps so many various businesses throughout the country.

And let me give the example of Boeing and the importance of exporting U.S. commercial aircraft. Over the last 5 years, Mr. Speaker, Boeing Commercial Airplane Group spent an average of $10 billion a year on goods and services produced by suppliers throughout the United States, and in 1991 Boeing had over 5,000 such suppliers. More than two dozen of these suppliers are in my own State of Ohio, and in the city of Cleveland, Cleveland Pneumatic Co. and Figgie International and Eaton Corp. all get business because Boeing is able to get opportunities at the Export-Import Bank and then network to smaller suppliers such as the ones I mentioned.

So, Mr. Speaker, we feel very, very strongly that this is a very, very important financing tool, not only for the country, but it certainly is an important financing tool in my own State.

I think this charter renewal is consensus legislation that all Members can support. I am delighted to have it with the minority leader of the subcommittee, the gentleman from Iowa [Mr. LEACH] who works closely with our Democratic members, and of course my friend and colleague, the gentleman from Ohio [Mr. WYLIE] who is the ranking minority member of the Committee on Banking, Finance and Urban Affairs. This is consensus legislation. When we go into our markups, we try very, very hard to have bipartisan support so that we can renew the Bank's efforts to help American firms, American workers pursue the historic new trade opportunities of this postcold war era.

Our subcommittee also found that requests for funding assistance from the Export-Import Bank have risen rapidly. In 1991, the Bank used up all of its authorized resources and still could not satisfy the demand.

Very heartening, also, is the judgment of the export community, as expressed in our hearings by Thomas Mullany of Rockwell International Corp., representing the Coalition on Employment Through Exports that:

Under the superb leadership of current Eximbank Chairman John Macomber, the Bank has become more responsive and innovative in its efforts to promote U.S. Exports.

The alternative is that the Bank will run out of authority to make commitments on October 1 1992, placing U.S. exporters at a severe competitive disadvantage, which we feel is unacceptable.

CONTENTS OF LEGISLATION

For these purposes, the subcommittee drafted a streamlined bill, containing two titles. A third title was added in the markup by amendment.

Title I, on the charter renewal, would extend both the general authority and the war chest authority of the Bank for 5 years, increase the Bank's aggregate ceiling for total financing, support the continued use of the Commercial Bank guarantee program, encourage the use of U.S. insurance companies in providing maritime insurance on Eximbank-financed exports, provide for one-stop centers to assist small- and medium-sized exporters with financing assist-

ance, and seek to tie the Bank's programs into any overall export strategy.

Title II of the print repeats title VI of H.R. 3428, with a couple of minor technical and clarifying amendment, one of which represents agreement between the Committees on Foreign Affairs and Banking with respect to the ban on bank financing of military articles—A provision of common concern. These provisions from our International Financial Institutions bill—H.R. 3428—have already been approved by our subcommittee, on September 25 1991, and by the full Banking Committee on June 18, 1992, House Report 102-657.

Title III also transfers excerpts from H.R. 3428 on the enterprise for the Americas Initiative, especially as it relates to the role of the Export-Import Bank.

Mr. Speaker, at this point I close this portion of my remarks by thanking the Democrat Members and the Republican Members who have supported this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished gentlewoman from Ohio [Ms. OAKAR]. She has been a wonderful leader on this particular issue, and I think her comments about Margaret Kahliff are also very appropriate. Mrs. Kahliff is one of the country's most energetic and successful business people, and certainly we are all proud of her brother, Senator BUMPERS, who served this Congress with such distinction.

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Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of our committee and certainly the leading commentator and expert on banking issues on our side of the aisle.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Iowa for yielding me this courtesy and for his complimentary remarks about my stewardship on the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, I do rise in support of the charter renewal for the Export-Import Bank.

Mr. Speaker, I would also compliment the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Iowa [Mr. LEACH] who have done most of the work on this bill, both of whom are highly regarded for their knowledge and leadership on export financing.

The gentlewoman from Ohio [Ms. OAKAR] has explained the bill very well. But from my perspective I feel strongly enough that I would like to say that the Export-Import Bank is one of the best tools the United States has to develop new markets abroad for U.S. exports. It has also been instrumental in combating the unfair export financing of other countries.

Increased exports provide a whole host of benefits to the U.S. economy. The more U.S. products we sell overseas, the more jobs we create here at home. Furthermore, increased exports help reduce the trade deficit, which lessens our country's reliance on foreign capital.

U.S. manufacturers of capital goods have been one of the major beneficiaries of Eximbank programs and the recent export boon. A strong performance in U.S. manufactured exports requires a competitive export financing system, including an aggressive and properly funded Export-Import Bank.

I am also quite pleased with the way the Bank has expanded its role and clientele to include small businesses, particularly with the Working Capital Guarantee Program which helps small businesses produce and market exports. The Bank's new slant toward small businesses is much needed—especially in States like Ohio.

A debt restructuring provision for Latin American and the Caribbean countries is also a part of this bill. The authority to sell and reduce the amount of Export-Import Bank debt owed by these countries was requested by the administration as part of the President's Enterprise for the Americas Initiative. The Eximbank is all about encouraging U.S. exports and helping U.S. businesses gain a foothold in merging markets. That is one of the major goals of the EAI [Enterprise for Americas Initiative] to help spur U.S. exports to our southern neighbors. The debt reduction authority is an appropriate and timely addition to this charter renewal legislation.

In addition to removing all of the Eastern and Central European countries from the list of Marxist-Leninist nations prohibited from using Eximbank services, the bill also removes Angola from the Marxist-Leninist list. In light of recent progress Angola has made in forcing the withdrawal of Cuban military troops, the United States will now consider lifting some of the sanctions it had imposed on that country. It should be noted, however, that Angola will not be allowed to receive financing from the Eximbank until the President certifies that free and fair elections have been successfully completed.

The administration is supportive of this legislation, albeit with a few reservations which hopefuly will be worked out in conference committee. I urge support of H.R. 5739.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the 5 years since the Congress last renewed the Eximbank charter, trade throughout the world has become increasingly interdependent, competitive, and critical to U.S. economic health. As Eximbank President John Macomber testified in May:

> Since 1988, over 70 percent of U.S. economic growth has come from expanding exports. In 1991 alone, Eximbank supported about $12 billion worth of U.S. exports. Since its inception in 1934, $260 billion.

In this circumstance, it is crucial that Congress support programs and agencies which promote manufacturing growth, and thus jobs, in our country. The Export-Import Bank is the most emblematic of such agencies. Exim's role in financing the export of U.S. manufacturing is increasingly important, in part because exports are a growing percentage of the American business enterprise, in part because the general trend in American banking is against the provision of credit to the manufacturing sector of the U.S. economy.

It is my particular hope that the Eximbank will play an active role in Eastern and Central Europe. The earlier U.S. businesses can access these markets, the more profoundly U.S. interests, business and strategies, will be served.

In addition to the charter extension, this bill contains a portion of the President's highly acclaimed Enterprise for the Americas Initiative [EAI]. The particular EAI provision in this bill grants the President the authority to conduct debt sales and reduction of Eximbank debt owed by some Latin American and Caribbean countries. The savings from this debt restructuring will help promote environmental and other progressive development programs and provide a more favorable climate for private investment and free enterprise.

The President's initiative in general, and this provision specifically, is consistent with the bill's goal of increasing export opportunities for U.S. companies. Debt restructuring will free up more dollars to be used to buy U.S. exports. The countries of Latin America and the Caribbean are important trading partners with $1 out of every $7 of U.S. exports going to the region.

In this context, I personally cannot overstate the importance of the President's initiative. It is good foreign policy, good immigration policy, and good economics.

Another provision of this bill strikes 12 countries from the lst of Marxist-Leninist countries to which the Eximbank may not lend. In essence, this will enable all of the former Eastern bloc nations and the former Soviet Union to become eligible for Eximbank financing, and subsequently open up these countries as new markets for United States goods and services. With so many United States exporting companies trying to gain a foothold in the former Soviet Union and Eastern Europe, the question of how to conduct trade with countries that don't have convertible currencies becomes increasingly complex. Institutions like the Eximbank can, with the backing of

the U.S. Government, establish important ties between U.S. companies and interested purchasers in the region.

Mr. Speaker, Export-Import Bank has distinguished itself as a flexible institution that responds to private sector demand and market trends. This legislation will ensure that U.S. exporters are able to compete with other countries' subsidy-focused export credit agencies.

Mr. Speaker, the administration enthusiastically, although as the gentleman from Ohio [Mr. WYLIE] has noted, with a caveat or two, supports this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would also like to express the judgment of the export-import community as expressed in our hearings by Thomas Mullany of Rockwell International Corp. representing a Coalition on American Employment Through Exports. Mr. Speaker, I also want to sanction what my friend, the gentleman from Iowa [Mr. LEACH], said.

Mr. Speaker, Mr. Mullany said:

Under the superb leadership of current Eximbank Chairman John Macomber, the bank has become more responsive and innovative in its efforts to promote U.S. exports.

Mr. Speaker, that is really the name of the game, to promote exports. Frankly, as I think my friend, the gentleman from Iowa [Mr. LEACH], alluded to, I personally wish that we could even remove the cap even farther than it is so that we would have even more businesses able to take advantage of what I think is one of the most important financial tools for our businesses that are interested in exporting their products.

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Our country will never be competitive globally, if we do not give our businesses the opportunities with these financial incentives and institutions that give them the means to export their products and, at the same time, that keep those jobs back here in the United States of America.

So this is very important, I think, significant, particularly at this time when we are at a crossroads in terms of various organizations and various countries being extremely competitive, when the European Community is uniting and offering even more competition in exporting. This is especially a significant piece of legislation at this point in time for American businesses.

I am very, very happy that we were able to work things out so that both sides agree with the legislation without any debate. So I am hoping we can pass this legislation unanimously to send the proper signals to our business community that say to them, "We want you to compete in the global markets, and we want you, at the same time, to keep those jobs back home."

That is the name of the game, and that is why this particular institution is so relevant.

Mr. Speaker, I include for the RECORD a summary of the Export-Import Charter Renewal Act of 1992.

SECTION-BY-SECTION SUMMARY OF THE EXPORT-IMPORT CHARTER RENEWAL ACT OF 1992

Section 1. Short title. Act to be cited as the "Export-Import Bank Charter Renewal Act of 1992." Also contains Table of Contents of the bill.

TITLE I—CHARTER RENEWAL

SEC. 101. Declaration of Policy. Section 101 provides a factual context for consideration of the renewal of the charter of the Export-Import Bank of the United States, which expires on September 30, 1992. The declaration cites the importance of exports to employment in this country (exports directly support more than 7 million full time jobs) and to U.S. economic growth (U.S. exports climbed 85.6 percent from 1986 to 1991). The vital role of the Export Import Bank in these developments is indicated by the statement taken from the Bank's most recent Annual Report that the institution's entire budget authority for 1991 was utilized and the Bank still could not meet the demand for financing assistance.

SEC. 102. Extension of Authority of the Export-Import Bank. This section amends section 8 of the Export-Import Bank Act of 1945 to renew the operating charter of the Bank by extending the date of its authorization from September 30, 1992 until September 30, 1997.

SEC. 103. Reauthorization of the Tied Aid Credit Fund. Section 103(a) extends the so-called "War Chest Fund" for dealing with tied aid credits from 1992 to 1997 at the same amount as authorized in fiscal years 1991 and 1992, thus authorizing appropriations of $500 million in each of the five years for these purposes.

Section 103(b) repeals a duplicative section of the International Development and Finance Act of 1989 relating to this subject that was inadvertently enacted.

SEC. 104. Increase in the Aggregate Loan, Guarantee and Insurance Authority of the Export-Import Bank. This section increases the overall aggregate of programs that may be outstanding in the Export-Import Bank from its present ceiling of $40 billion, at the rate of $5.8 billion per year, to a total of $69.2 billion in 1997. The purpose of lifting this ceiling is to provide adequate latitude for the Bank to increase its programs in response to expanding opportunities in international trade.

SEC. 105. Use of Loan Guarantees. Section 105 urges the Bank, in making its decisions to allocate resources under the new "credit reform" budget, to consider not only the subsidy costs of such programs, but also the value of having commercial banks involved in financing exports, because of their locations throughout the country and the ancillary services they provide to U.S. exporters.

SEC. 106. Report on Export Policy. This section requires the Export-Import Bank to submit an annual report to Congress on the competitiveness of U.S. export financing and its relationship to any overall strategic plan developed by federal agencies to promote and finance the sale of U.S. products and services abroad. The section also calls for testimony on such reports before the appropriate committees of Congress.

SEC. 107. Study on policies to facilitate exports of intangible products and services. Section 107 would establish a committee under the auspices of the Export-Import Bank to conduct a 2-year study to identify policies which, if implemented, would facilitate the export of intangible goods and services from the United States.

SEC. 108. One-Stop Financing Shops. This section would have the Bank, in cooperation with other federal and state agencies, establish "one-stop" centers for dispensing information on export and pre-export financing by way of such programs as loans, guarantees, insurance, and contribute information, training and personnel to such centers.

SEC. 109. Insurance-related business stemming from Bank activities. Section 109 would amend section 2(d) of the Export-Import Bank Act to provide that, in any long-term loan or guarantee transaction of $10 million or more, the Bank will seek to ensure that U.S. insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in such transactions. If such opportunities are denied, a report would be forwarded to the Secretary of Commerce and the United States Trade Representative for consideration of whether export credit to such country should be restricted.

SEC. 110. Conditional allowance of assistance for exports to Angola. This section would strike the country of Angola from the list of Marxist-Leninist countries maintained in section 2(b)2(B)(ii) of the Export-Import Bank Act, removing this restriction from export financing to Angola by the Bank.

TITLE II—OTHER PROVISIONS

NOTE: Under the "credit reform" budget system, enacted by the "Credit Reform Act of 1990," (Public Law 101-964, October 27, 1990), authorization is required for a subsidy amount sufficient to support the program levels of the Export-Import Bank. However, section 505(a) of that Act contains an all-purpose authorization for "such sums as may be necessary to pay the costs associated with such direct loan obligations or loan guarantee commitments."

(Conference Report on the "Omnibus Budget Reconciliation Act of 1990," House Report 101-964, page 645). As a result of section 505(a), authorizations of specific subsidy amounts in support of the Export-Import Bank program levels for the current or future fiscal years are not necessary in this legislation.

Title II is virtually identical to Title VI of H.R. 3428, the "International Development, Finance and Trade Act of 1992," approved by the Committee on Banking, Finance and Urban Affairs on June 18, 1992 (House Report 102-657).

SEC. 201. Appointment and Compensation of Bank Personnel. This section would amend sec. 3(c) of the Export-Import Bank Act to permit the Bank, without increasing its budget, to compensate its personnel in a manner comparable to employees of the bank regulatory agencies under the Financial Institutions Reform, Recovery and Enforcement Act of 1990 (FIRREA).

SEC. 202. Increase in membership of Advisory Committee. Section 202 would amend section 3(d)1(A) of the Ex-Im Bank Act to increase membership of the Bank's advisory committee from 12 to 15. The Advisory Committee was created by section 613 of the Export-Import Bank Amendments of 1983. Its members are appointed by the President of the Bank upon recommendation of the Bank's Board of Directors.

SEC. 203. Elimination of limitation on financing for exports to the former Soviet Union. This section contains a proposal made in the Russian Freedom Aid Package submitted by the President to Congress on April 3, 1992: to strike from the list of "Marxist-Leninist Countries" 12 nations in Central and Eastern Europe and in the territory of the former Soviet Union that the Administration has determined no longer practice this form of government.

SEC. 204. Financing of high technology exports to emerging democracies. This section would add to section 2(b)1 of the Export-Import Bank Act a new subsection calling upon the Bank to develop, in cooperation with high technology companies, small business, and federal, state, and local agencies involved in export promotion, a program for increasing export of higher technology products and services to emerging democratic countries, especially those of Eastern Europe that are subject to the SEED program (Support for Eastern European Democracy) begun in 1989. This section also provides that up to $125 million of the Bank's loan, guarantee, and insurance resources may be used to carry out this program.

SEC. 205. Report on demand for trade finance for Central and Eastern Europe, the Baltic States and the independent states that have replaced the Soviet Union. Section 205 states Congressional findings that export participation in the economies of the areas referred to above is important for job preservation and creation in the U.S., and that ExImBank financing assistance is a significant factor in the current and future U.S. business presence in these nations. As a consequence, the section requires the Export-Import Bank to prepare a report on the potential demand for trade financing in the Baltic States, the former Soviet Union and any successor states, together with any recommendations for promotion of trade with these states.

SEC. 206. Prohibition on financing the exports of defense articles. The section would prohibit the Export-Import Bank from financing the exports of any defense articles or services to developed, as well as developing countries, except under a previously enacted exception for Presidentially determined anti-narcotics purposes, and then only after the President, after consultation with non-governmental organizations, determines that any previous assistance of this kind has not been used to violate internationally recognized human rights.

SEC. 207. Study by the General Accounting Office on financing of defense articles and services. This section proposes that, six months after enactment, the G.A.O. report to the Speaker of the House and the President of the Senate on whether the countries that may have purchased defense articles financed by the Ex-Im Bank in the past have complied with end-use restrictions imposed by the U.S. or have used any such articles to violate human rights.

SEC. 208. Study of competitive effects of carriage of exports on U.S. flag vessels. Section 208 calls for short-term study of the competitive effect of requiring U.S. exports to be carried aboard U.S. flagged vessels, as required by the Act of March 26, 1934.

SEC. 209. Reporting by ExImBank on assistance rendered to small business. This section amends section 2(b)(1)(E)(v) of the Export-Import Bank Act by adding the word "directly," so that after October 1, 1992, reports to Congress on export financing by the Bank to small business, under the 10 percent set-aside provisions enacted in 1983, tabulate only assistance provided directly to small firms, and not include funds coming to small firms as subcontractors of other firms that may be recipients of financing the Bank.

SEC. 210. Effective date. Prescribes an effective date for this title of October 1, 1991.

TITLE III—ENTERPRISE FOR THE AMERICAS INITIATIVE

NOTE: This title is excerpted from Title III of H.R. 3428, the International Development, Trade and Finance Act of 1992, as approved by the Subcommittee on International Development, Finance, Trade and Monetary Policy on September 25, 1991 and by the House Committee on Banking, Finance and Urban Affairs on June 18, 1992 (House Report 102-657).

SEC. 301. Purpose of the Enterprise for the Americas Initiative. Section 301 states the purpose of this legislation as an effort to improve the lives of the people of Latin America and the Caribbean areas through a set of interrelated initiatives to promote investment, debt reduction and environmental protection to be known as the Enterprise for the Americas Initiative (EAI).

SEC. 302. Definitions. Defines such terms as "Facility" as used in the title.

SEC. 311. Establishment of Enterprise for the Americas facility. Creates, at the Department of the Treasury, a facility for administering the debt reduction aspects of the Enterprise for the Americas Initiative ("EAI").

SEC. 312. Purpose. The purpose of the facility proposed in section 311 is to support the objectives of the EAI, as set forth in section 301, by administering the debt reduction, cancellation, exchange and sale features described in the statute.

SEC. 313. Eligibility for benefits under the facility. Conditions for eligibility for debt reduction are itemized in this section, as follows: participating nations must be Latin American or Caribbean nations; substantial progress should be made toward an agreement for a program (if appropriate) with the International Monetary Fund or the IBRD; substantial progress should be made toward a loan arrangement with the Inter-American Development Bank; there are indications of progress toward establishing an open investment regime and progress toward an agreement with the country's commercial bank lenders. The President shall determine if the eligibility requirements have been met.

SEC. 321. Loans or assets eligible for sale, reduction or cancellation. Provide for loans, or portions thereof, made pursuant to the Export-Import Bank Act of 1945 to be reduced or canceled for purposes of the EAI.

SEC. 322. Authorization of appropriation. Authorizes such sums as are necessary, subject to the appropriations process, and without fiscal year limitation, for purposes of implementing the debt reduction aspects of this legislation.

SEC. 323. Deposit of proceeds. Provides technical procedures for deposit of funds received from purchasers under debt reduction arrangements administered by the Facility.

SEC. 324. Eligible purchaser. Defines eligible purchasers of loans in terms of presentation of a plan satisfactory to the President regarding debt-for-equity, debt-for-development, or debt-for-nature arrangements.

SEC. 325. Debtor consultation. This sections provides that, before concluding any debt reduction arrangement, the President must consult with the debtor country concerned.

SEC. 331. Annual report to and consultation with Congress. Provides that the President should consult with the appropriate House (Banking) and Senate Committees with regard to the operation of the Facility, and submit an annual report to Congress.

Mr. IRELAND. Mr. Speaker, I rise in support of H.R. 5739, a bill that will renew the charter of the Export-Import Bank for 5 more years. The Eximbank has played an instrumental role in financing the export of U.S. goods and services, enabling American businesses to compete successfully in a global marketplace.

I want to commend Ms. OAKAR, who chairs the Subcommittee on International Development, Finance, Trade and Monetary Policy, and Mr. LEACH, ranking Republican, for their leadership and quick action on this timely legislation. H.R. 5739 recognizes not only the importance of exporting to the U.S. economic viability, but offers changes that promise to enhance our Nation's competitiveness.

Increasingly, smaller businesses have attempted to penetrate export markets abroad. As innovators and job creators, the participation of American small businesses in international trade is crucial to our Nation's economic growth and competitiveness. The distribution of Eximbank financing, however, has not reflected the value or needs of America's small exporters, and remains biased toward big business.

To remedy this inequity, in 1983, a bipartisan effort by Congress resulted in the passage a small business set-aside requiring the Eximbank to provide a percentage of their budget authority to small concerns. As a result of our efforts, we hoped to see a redirection of Eximbank loans, guarantees, and insurance from big businesses to small exporters.

Unfortunately, Eximbank has continually flouted congressional intent and met the set-aside by providing financing to large exporters, such as Boeing, who subcontract to small businesses. This type of indirect support was clearly not what the Members who worked so hard to address the needs of small exporters had in mind. It is only through direct access to loans, guarantees, and insurance that small exporters can successfully negotiate and secure contracts abroad.

Mr. Speaker, I commend the gentleman from New York [Mr. LAFALCE] for addressing this issue. As a result of his efforts this legislation clarifies statutory language to allow only financing that goes directly to small exporters to be used by Eximbank to meet the set-aside requirement.

Another provision included in this bill deserves recognition as well, and I congratulate the gentleman from New York for his leadership again. This provision will require the cross-training of Eximbank and Small Business Administration employees to educate them on the types of financing Eximbank provides. Including SBA employees in the learning process will enhance understanding of complex Eximbank programs, promote cooperation between the agencies, and expand outreach to small businesses interested in and capable of exporting.

My hope is, Mr. Speaker, that these changes will help bring the priorities of the Eximbank closer in line with those of Congress and that we will see a real increase in small business participation in Eximbank programs.

Mr. Speaker, the importance of exporting to the future of our economy calls not only for

support of this legislation, but for our continued interest in the operations of the Export-Import Bank as they serve this Nation's commercial interests. Therefore, I would like to make my colleagues aware of a recent development at Eximbank that warrants our future attention.

Less than 2 weeks ago, the Export-Import Bank announced a plan to federalize the servicing of their insurance programs. Because insurance accounts for the lion's share of the Bank's small business support, I am particularly concerned.

Currently, the Eximbank is under contract with a private association that has been doing a good job of managing the Bank's insurance programs for a number of years. I am always wary of a move to deprivatize a program that has received little criticism, especially if doing so threatens to disrupt and erode service to the consumer. An interruption in export financing has potentially devastating affects: the loss of business, confidence, and trust between the exporter and importer. American businesses cannot affort to suffer such set-backs.

I urge my colleagues to follow this issue closely and keep pressure on the Eximbank to ensure that the driving force dictating its action is the interests of the exporters they serve.

Mr. BEREUTER. Mr. Speaker, I rise in support of H.R. 5739. It is urgent and important to move forward with this 5-year reauthorization of the export financing programs of the Export-Import Bank of the United States, which expire on September 30, 1992.

Strong and expanding exports are a key to renewed economic growth for the United States. Export markets are changing rapidly with the many changes in the world's political and economic situation. Stable export finance programs must be in place to allow U.S. firms to enter and remain in these markets on a competitive basis. The Export-Import Bank, with its direct loan, guarantee, and insurance programs, is a cornerstone of that stability for the export sector and for the private financial institutions that are active in trade finance. The war chest, also reauthorized in this legislation, has been and continues to be an important instrument of leverage to obtain and enforce agreements among OECD countries that limit predatory use of tied aid and export finance.

I therefore strongly support the reauthorization of the Eximbank's programs and the reauthorization of substantial sums for war chest use, whenever and wherever necessary to deter unfair, trade-distorting use of mixed credits by other countries in violation of international guidelines adopted in the OECD. The overall lending authority in the bill, I note, would allow present program levels to be maintained and even expanded, subject to annual authorizations for the subsidy amount required to be set aside under credit reform calculations.

I believe it is important to move forward with measures to improve the climate for United States exports to Latin America and the Caribbean, our fastest growing export region. I therefore note that it is appropriate and desirable that this legislation include the provision of the Enterprise for the Americas which provides authority for the President to restructure Eximbank debts of eligible countries in the region, when such restructuring contributes to a better climate for United States exports and jobs.

I urge support of this important export-promoting legislation.

Mr. SISISKY. Mr. Speaker, I would like to voice my support and enthusiasm for one very small but very important provision of this bill reauthorizing the Expert-Import Bank's charter—H.R. 5739. This legislation contains an amendment to the charter that will help ensure the proper functioning of the Bank's small business set-aside program.

Specifically, the amendment reiterates congressional intent that only direct assistance to small exporters may count against the set-aside. In the past, inclusion of so-called indirect assistance, such as small business subcontracts on Boeing exports financed by the bank, has resulted in a misleading overstatement of Eximbank's compliance with this set-aside. This is a problem that I have long sought to remedy as chairman of the export subcommittee of the Committee on Small Business.

As the representative of a region that lives and breathes small business, I am a committed soldier in the struggle to advance the interests of small business in Congress. In particular, as chairman of the export subcommittee, I am seriously concerned about the obstacles that prevent more small businesses from exporting.

It is often said that increasing U.S. competitiveness is crucial to the long-term prosperity and well-being of our country. To do that, getting our exporters to be more competitive will not be enough; we must also get more of our best competitors to export. Well, we all know that our best competitors are often small businesses. We must tap the tremendous potential of small business to repair this country's trade imbalance and lead our economy into the twenty-first century.

The Eximbank has a critical role to play in this endeavor. The lack of export financing is a serious impediment to the small exporter, and financing difficulties are a significant deterrent to businesses who might be interested in exploring foreign markets. Yet many banks have withdrawn almost entirely from international trade, and they are especially reluctant to lend to small business. There is a crying need for Eximbank to step into the breach and meet the demand of small business for export financing.

It is perhaps not surprising that Eximbank has not done all it can in this regard. We all recognize that it is much easier for the Bank to deal with big business than with smaller companies. Eximbank does not have to provide any outreach to the corporate conglomerates; they already have offices in Washington with full-time personnel advancing their interests. It is also much easier for the Bank to make loans and guarantees in the enormous amounts requested by big business; small businesses require more attention and just as much paperwork for transaction amounts that, by comparison, must seem penny ante.

While this state of affairs may not be surprising, it cannot be condoned. We cannot let the extra bother dissuade us from our mission to give America's small business an even break. Yes, it does take a special effort to make sure that government works as well for small business as it does for big business. But this effort is neither extraordinary nor heroic: we all have a right to expect that government will work efficiently and enthusiastically for all our citizens, including small businesses.

In recognition of the additional effort that is called for, Congress instituted a 10 percent small business set-aside for the Eximbank in 1983. According to a GAO study I requested, the Bank now appears to be providing around 13 percent to this total to financing to small businesses, down for 14 percent in 1990. However, this compliance is due almost entirely to the insurance program, which is contracted out to a private association. Only around 2 percent of financing under programs administered direct by Eximbank is for small business exports.

Earlier this year, the Bank announced a reform package to revamp its small business program. Already, the Bank says, there has been a significant increase in small business applications. I am delighted at this good news. I've got to tell you that I will be even more delighted when I learn that small businesses see Eximbank as an eager partner in facilitating exports, rather than a primary source of frustration.

We in Congress must remain vigilant to ensure that Eximbank does right by small business. H.R. 5739's amendment to the Bank's small business set-aside is an important tool for that task. It will help ensure that Congress can fairly and accurately monitor the Bank's progress toward the goal of greater participation by small exporters.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 5739.

The question was taken; (and two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CONVEYING REAL PROPERTY TO BLACK HILLS WORKSHOP AND TRAINING

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3453) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND TO BLACK HILLS WORKSHOP AND TRAINING CENTER, INC.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law which requires that property of the United States be used for a particular purpose, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota (hereinafter in this section referred to as the "Center"), all right, title, and interest of the United States in certain property under the control of the General Services Administration and described in subsection (b).

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in section 4, T.1N., R. 7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been determined to be excess property and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc., and approved by the Forest Service on October 2, 1990.

(c) TERMS.—A conveyance of property under this section shall be—

(1) by quitclaim deed;

(2) completed by the Administrator by as soon as practicable after receipt by the Administrator, by not later than 120 days after the date of the enactment of this Act, of payment in an amount equal to the fair market value of the property, as that value is established by an independent appraisal obtained by the Administrator under subsection (d); and

(3) subject to such other terms and conditions as the Administrator determines to be appropriate.

(d) APPRAISAL.—The Administrator shall obtain an independent appraisal of the property required to be conveyed under this section by not later than 60 days after the date of the enactment of this Act.

(e) PROCEEDS FROM DISPOSITION OF PROPERTY.—Funds received as payment for the property shall be treated as proceeds from a sale of surplus property.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 20 minutes, and the gentleman from California [Mr. COX] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before my colleagues H.R. 3452, introduced by Mr. JOHNSON of South Dakota. The purpose of the bill is to enable the Black Hills Workshop and Training Center to purchase a small amount of excess Federal land so that it can expand the operation of its present center, which is located next to the federally owned land. The center would pay fair market value. The amendment makes merely technical and perfective changes.

This center is a nationally accredited, nonprofit, taxexempt organization that has been training disabled adults and children for many years. There is today a sizable waiting list of those seeking assistance. The center would be qualified to receive the property at no cost as a transfer for educational purposes under the Federal Property and Administrative Services Act; but the processing of such a transfer might take from 6 to 10 months, without any assurance the property would actually become available for such a transfer. The center, however, needs to begin construction on the expansion this year before the onset of severe weather.

The other body passed a similar measure, S. 1770, on November 26, 1991.

The Congressional Budget Office advised then that enactment would lead to an increase of Federal receipts in the neighborhood of $100,000 as a result of the center's paying for the land. Under H.R. 3453, the exact amount will be determined by an independent appraiser.

Mr. Speaker, ordinarily the Committee on Government Operations does not favor special legislation outside the disposal system provided by existing law. The present measure, however, is uniquely eligible for an exception. First, the center is willing to pay to the Government fair market value for this excess property. Second, as a nonprofit tax-exempt educational institution, the center would be qualified to obtain the property at no cost under the Federal Property Act. Third, the public benefit which the center is rendering is exceptionally meritorious and compelling. Fourth, there is need for prompt action to enable construction of the expansion to begin this year. The bill, will in fact, sets time limits to assure that the parties will perform their respective functions expeditiously.

Mr. Speaker, I urge adoption of H.R. 3453, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. COX of California. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to lead the Republican side of the aisle in support of this legislation which so constructively addresses a problem faced by so many average Americans.

I have long been interested in this legislation, which will help disabled Americans obtain jobs while actually improving the Treasury's revenues.

The bill enjoys broad support. It, of course, has the support of the South Dakota delegation. It is supported by the ranking Republican and the ranking Democrat on the Committee on Government Operations. It is supported by the Bush administration and by the Forest Service.

As my colleague, the distinguished gentleman from Oklahoma [Mr. ENGLISH] has explained, this bill will allow the transfer of 5 acres of surplus forest land near Rapid City, SD, to the Black Hills Workshop and Training Center.

This center provides high quality training services to more than 300 disabled Americans. The center has also helped to place those individuals in jobs: positions in electronics, manufacturing, woodworking and food services in the Rapid City area.

This kind of training program is largely supported by the private sector, and it is a model of what we ought to be doing across the Nation, if we are going to keep our work force in America competitive.

The land transfer authorized by this bill will allow the Black Hills program to reach a much larger constituency.

Finally, while this Congress has continued its deficit spending in so many other bills, even today, this bill is a refreshing change. This bill does not increase the deficit. In fact, this bill actually will decrease in a small way Federal spending, as a result of the offer of the Black Hills Center to pay fair market value for the land.

The taxpayers will be getting full value, in other words, for this land transfer. As a result, I am happy to join with my colleagues in supporting passage of this very sensible land transfer measure.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I would simply like to rise and compliment my friend for playing a role in bringing about what is clearly a bipartisan way of dealing with the deficit. I would argue if, in fact, this is going to decrease the deficit, we should be fighting desperately to find more land transfer opportunities for us so that we can turn the corner on this crisis.

I thank the gentleman for yielding to me and compliment him and my friend, the gentleman from Oklahoma.

Mr. COX of California. Mr. Speaker, I thank my colleague from California.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota

Mr. JOHNSON of South Dakota. Mr. Speaker, I want to thank the gentleman and the Committee on Government Operations as well as the chairman of the Subcommittee on Government Activities and Transportation, the gentlewoman from California [Mrs. BOXER] and the gentleman from California [Mr. COX] for his great assistance and cooperation in bringing H.R. 3453 to the floor today.

□ 2100

Mr. Speaker, I introduced this noncontroversial legislation last year in

an effort to help the Black Hills Workshop and Training Center of Rapid City, SD, purchase 2¼ acres of neighboring land which the Forest Service has declared as surplus. Similar legislation has already passed the other body. I look forward to House passage of this legislation as well.

The Black Hills Workshop and Training Center is a private, nonprofit accredited corporation which provides services to more than 300 disabled adults and children. The workshop has been tremendously successful in providing important services, such as vocational training and community adjustment, to disabled persons. In fact, their success has caused the need for this legislation, which would allow them to expand their facility to accommodate the more than 60 people currently on their waiting list. The property is immediately adjacent to the workshop and part of the Forest Service land in the Rapid City area.

This workshop has been working with the Forest Service now for almost 2 years in their effort to expand, and the Forest Service has assisted by declaring this 2¼ acres excess property. While the workshop would be the likely recipient of this excess Federal property, the regular GSA review and disposal process would further delay the workshop in expanding while at the same time preventing them from providing the service to the disabled. The workshop has agreed to pay their fair market value of this small plot of land, and fair market value language is included in the legislation to ensure the Federal Government receives a fair return on the sale.

Again, I want to thank the Government on Government Operations for bringing this bill to the floor in a timely fashion, and I urge passage of the full House to my colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Oklahoma [Mr. ENGLISH] that the House suspend the rules and pass the bill, H.R. 3453, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota, at fair market value, certain surplus real property located in the Black Hills National Forest and described in subsection (b).

(b) DESCRIPTION.—The real property referred to in subsection (a) is located in Section 4, T.IN., R.7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been declared surplus and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc. and approved by the Forest Service on October 2, 1990.

MOTION OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ENGLISH moves to strike all after the enacting clause of the Senate bill, S. 1770, and to insert in lieu thereof the provisions of H.R. 3452, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (3453) was laid on the table.

GENERAL LEAVE

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from New York [Mr. FISH]

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESOLUTION CALLING FOR AN ETHICS PROBE OF CHAIRMAN GONZALEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I introduce this resolution with great reluctance. But quite frankly I don't know what else to do. Over 2½ months ago, in an effort to keep this above politics, I quietly wrote the Speaker about my concerns over the unauthorized disclosures by Chairman GONZALEZ, urging quick and decisive action. I got no response, even Attorney General Barr indicated in a letter to the Speaker that because of Mr. GONZALEZ' unauthorized disclosures, the administration must cease furnishing him classified information.

Eleven days ago in another letter to the Speaker, I reiterated my concerns, and noted that since my original letter, there had been more unauthorized disclosures by Mr. GONZALEZ that were drawn from very sensitive and highly classified CIA documents. These latest disclosures prompted letters to House leaders from the Director of Central Intelligence, Robert Gates, and Adm. William Studeman, who is temporarily serving as the acting Director of Central Intelligence.

Both Gates and Studeman have indicated that Mr. GONZALEZ has unilaterally disclosed classified intelligence information. So have representatives of the State Department and Treasury Department with respect to classified information emanating from their agencies which they gave Chairman GONZALEZ in a good faith effort to comply with his requests.

Mr. Speaker, the information that Mr. GONZALEZ has been disclosing was furnished to him with the understanding that it be properly protected. The key to successful oversight of intelligence matters is trust. Without it, the whole process breaks down. Failure to act on this matter provides the executive branch with a legitimate reason to withhold information—information that is crucial to meaningful oversight.

Failure to address this problem immediately will also cause serious damage to our Intelligence activities overseas. Put yourself in the shoes of a friendly country or third parties who have been helping our intelligence officers carry out their mission. Letting this go on unaddressed creates the perception that Congress is a sieve and we are unconcerned about the security interests of our allies and the lives of our intelligence officers and their agents.

We must remember that in this highly interdependent world we can't go it alone. Terrorism is a case in point. Most terrorism against U.S. citizens occurs overseas. To combat it, we need the cooperation of our allies. That kind of cooperation is going to dry up—if we continue to let leaks like this go unpunished.

Failure of the House to hold Mr. GONZALEZ accountable places him above the law. Moreover, this steady stream of leaks by a senior Member of this body reflects very badly on the public reputation and dignity of the House as an institution, quite apart from any consideration of the merits of Chairman GONZALEZ' speculations on the meaning and significance of the information he has been disclosing. For the leadership of the House to continue to tolerate this highly questionable behavior has other far-reaching and disturbing ramifications. It feeds what I fear is a growing and very troubling perception of the relative ease with which any Member can disclose classified information with impunity.

Mr. Speaker, every Member of this institution must abide by our rules and procedures. When a member of a committee wishes to

bring classified executive branch information before the House, rule 29 provides the vehicle of a secret session to do so. That information must remain protected unless the House votes to disclose it. In short, I believe that Mr. GONZALEZ' conduct does not reflect creditably on the House and violates clause 1 of House rule 43, which deals with Members' code of conduct. It also violates clause 2 of House rule 43, which enjoins all Members to adhere to the spirit and the letter of the rules of this body.

It is against this backdrop, Mr. Speaker, that I introduce this resolution today. Enough is enough. It is time for action. Every day of inaction risks further disclosures and further damage to national security interests and to the vitality and effectiveness of the legislative oversight process.

H. RES. —

Whereas on March 2, 1992, Representative Henry B. Gonzalez knowingly and willfully inserted in the Congressional Record documents of the Executive Branch bearing markings indicating that they were classified for reasons of national security;

Whereas on July 7, 1992, Representative Gonzalez willfully disclosed information from a purported Central Intelligence Agency intelligence document which he publicly acknowledged at that time to be classified;

Whereas the Director of Central Intelligence, Robert M. Gates, has indicated in writing that Representative Gonzalez's "statement in the Congressional Record on 7 July 1992 included information from a TOP SECRET compartmented and particularly sensitive document" to which the Central Intelligence Agency had given his committee staff access;

Whereas the Director of Central Intelligence further stated in writing to Representative Gonzalez, regarding his July 7, 1992, statement in the Congressional Record, that, "Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure. I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy . . . our need to protect intelligence sources and methods";

Whereas the Acting Director of Central Intelligence, Admiral William O. Studeman, has confirmed in writing to Representative Gonzalez that portions of statements in the Congressional Record by Representative Gonzalez on July 21 and 27, 1992, "were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive";

Whereas the Acting Director of Central Intelligence has stated in writing to Representative Gonzalez, regarding his statements in the CONGRESSIONAL RECORDS of July 21 and 27, 1992, that, "I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods";

Whereas the Department of State has confirmed in writing that, over a number of days, Representative Gonzalez "inserted into the CONGRESSIONAL RECORD the full text of at least fourteen classified documents generated by the Department of State," and the Department of State indicated further that those documents "contain classified information involving sensitive diplomatic discussions";

Whereas the Treasury Department has indicated in writing "very serious concerns" over Representative Gonzalez's "disclosures of classified information in the CONGRESSIONAL RECORD" which included information from a classified Treasury Department document;

Whereas on numerous other occasions Representative Gonzalez has knowingly and willfully disclosed in the CONGRESSIONAL RECORD information from Executive Branch documents which are apparently classified for reasons of national security;

Whereas the classified documents in question were apparently made available to the Committee on Banking, Finance and Urban Affairs by Executive Branch agencies in good faith cooperation with a committee investigation and with the expectation that access would be restricted to persons with appropriate security clearances;

Whereas the public disclosure of information from the classified documents in question was not necessary for legitimate legislative oversight, and the Committee on Banking, Finance and Urban Affairs apparently has not voted to disclose publicly those classified documents;

Whereas the public disclosure of the contents of the classified documents in question appears to be detrimental to the national security and foreign policy interests of the United States;

Whereas the conduct of Representative Gonzalez raises serious questions of possible violations of Clauses 1 and 2 of Rule XLIII (Code of Official Conduct) and possibly Clause 2(k)(7) of Rule XI (Rules of Procedures for Committees) of the House;

Whereas the knowing, unilateral and unauthorized disclosure of classified information by Representative Gonzalez seriously imperils the spirit of mutual cooperation and trust between the Congress and the Executive Branch so critical to effective legislative oversight;

Whereas the nature and gravity of the conduct of Representative Gonzalez is such that the reputation and dignity of the House as an institution and the integrity of its proceedings, especially its oversight activities, may well be adversely affected;

Whereas Representative Gonzalez willfully continues to disclose publicly information from classified documents; and

Whereas in the interest of a prompt and fair resolution of the serious questions raised regarding the apparent unauthorized disclosure of classified information in seeming violation of the Rules of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is directed to investigate whether Representative Gonzalez has, during the Second Session of the One Hundred and Second Congress, publicly disclosed classified information in the CONGRESSIONAL RECORD, and in so doing violated the Rules of the House of Representatives or any duly constituted committees. All other committees, and all Members, officers, or employees of the House who may have information relevant to this investigation are directed to cooperate promptly with the Committee on Standards subject to procedures the Committee shall adopt necessary to protect from unauthorized disclosure classified information which may be transmitted to the Committee pursuant to this investigation. The Committee on Standards of Official Conduct shall promptly report its findings and any recommendations to the House.

AMERICA'S CONTINUING LEADERSHIP ROLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, I have taken out this special order this evening, and I know we may be competing with the Olympics, but it is interesting when we look at the leader in medals. It is the Commonwealth of Independent States, so it seems to me that it is very appropriate to take some time to talk about what is a very important, once-in-a-lifetime opportunity. We all know, having witnessed the now very famous revolution of 1989, when we saw the Berlin Wall crumble and other nations throughout Eastern and Central Europe fall. Then a little more than a year ago, we witnessed the demise of the Soviet Union.

In fact, it was a year ago this month that we saw these great changes in the former Soviet Union take place, and who would have guessed that the multifarious Republics of the then-Soviet Union would break up in the way that they have? Very few people would have predicted the kinds of changes which we have seen, which frankly have taken place under what I believe to be the great leadership of President George Bush, and the groundwork for this, of course, was laid by Ronald Reagan.

We have before us a very pressing, challenging, and difficult issue that must be addressed in light of those changes. It is no secret that we in the United States are faced with some very serious domestic problems. We got the unfortunate news today that the Index of Leading Economic Indicators for the month of June dropped by two-tenths of 1 percent. We have seen in my State of California an unemployment rate in excess of 10 percent. The unemployment rate in California has come about in large part due to the great success of freedom and democracy over the repression and totalitarianism which had been led by the Bolshevik Revolution of 1917.

The fact that we have won has played a role in the understandable reduction in defense expenditures, and we, in a strange way, are paying the price domestically for the success that we, as the last bastion of freedom in the world, have had over the past several years.

During the decades since the Bolshevik Revolution, and really since World War II, we have seen the United States expend $4.3 trillion to try to contain communism. As we all know, we have only succeeded in containing it, but it has been basically obliterated, with very few exceptions, throughout the world.

The challenge that we face today, Mr. Speaker, is how we are going to play a role as the world's leader and ex-

ample of freedom in trying to ensure that the former Soviet Union, the now Commonwealth of Independent States, how is it that we will be able to ensure that these very fragile democracies are able to move dynamically toward a market-oriented economy, freedom, and democracy?

As we look at the challenge, it is a great one. I have not been a strong proponent of foreign aid. In fact, I have consistently opposed the massive foreign assistance packages which we have seen in the years that I have had the privilege of serving as a Member of Congress.

One of the things that has to be realized, though, is that having spent that $4.3 trillion trying to contain communism, we must recognize that we have got to set an example, and we have to play a leadership role for the emerging democracies.

□ 2110

Just yesterday, President Bush sent a letter in which he encouraged us to support what has become known as the Freedom Support Act which will provide much-needed assistance to the Russian Republic, the Ukraine, Armenia, and others of the New Commonwealth of Independent States. It seems to me that again, this is the opportunity of a lifetime, and I hope very much that we will be able to fashion legislation which I will be able to support to try and wean those who have tried to live in a command-and-control economy for decades to a market system. So as we get the requests which have come from the President and from a number of other people to support this, I hope very much that we will be able to look at some very creative ways in which we can, I believe, improve this legislation.

I have five basic provisions which I hope will be incorporated in the Freedom Support Act so that I will be able to support it, and so that many of my colleagues will be able to support it.

The first is basically what is known as the index of economic freedoms. We now know that there is still in place in the former Soviet Union what is known as the nomenclatura, a bureaucracy which continues to attempt to perpetuate itself, and it is important that we do everything that we can to break that up. In determining whether or not United States assistance should be provided for an independent State in the former Soviet Union, I hope that our President will consider property rights, regulations, and informal sector, wage and price controls, taxation, trade policy, restriction on investments, and capital flows, and the size of the State sector and the degree of government ownership of a wide range of industry, banking, and others. I think that we need to have, as an important provision in the Freedom Support Act, this index of economic freedom so that we can ensure that we are moving in the direction of a free market there.

The second provision that I am calling for is the establishment of what is known as a business information center. One of the things we found as a challenge is we know that there are business opportunities that exist in the emerging democracies. There are many Western investors here in the United States who would like to have the opportunity to invest in the Commonwealth of Independent States. So the idea of a business information center is to establish this system for the States of the former Soviet Union using the services of the United States Information Services Company. It will be run by the program coordinator for AID to the former Soviet Union, and will serve as a central clearinghouse and data resource service for United States businesses and businesses in the former Soviet Union.

Mr. Speaker, the third provision that I am hoping to be able to see us implement is what I call the SBA, the Small Business Administration international business education program. It establishes a program in coordination with the Agency for International Development to use the Small Business Development Center, and one of the very important aspects of the senior corps of retired executives to make management training available to businessmen and women, and to government officials from the former Soviet Union, the idea being that we have many retired executives who have utilized what is known as the SCORE program, the senior corps of retired executives, and they have been able to help people here in the United States who have been trying to put together the wherewithal and the expertise to begin their businesses. We have this great resource here. Rather than simply funneling money to the former Soviet Union, why do we not utilize this very already successful SCORE program, senior corps of retired executives to help people in the former Soviet Union.

Mr. Speaker, the fourth is known as the Center for Political Education. It establishes a center through the United States Information Agency to provide leaders in the former Soviet Union with training, a hands-on experience with the United States Congress, political campaigns, the media and businesses. The congressional Gift of Democracy Fellowships would be awarded to two nongovernment organizations to develop and administer this center. There have been a number of private organizations which have done this type of thing with the emerging democracies of Eastern and Central Europe, and I always argued when we were bringing activists from Solidarity and other reform movements in Central and Eastern Europe that if they intern for a while on Capitol Hill, they may want to go back to Communist totalitarianism in their country because of the frustrations that many of us feel around here. But the fact of the matter is, it has been a great opportunity for people to experience this training, media, government, and business. So I hope very much that we are able to utilize this concept of a Center for Political Education.

The fifth provision, Mr. Speaker, calls for the establishment of something which has been very successful in dealing with a wide range of other countries. Since I have been here in the Congress, I have had the privilege of serving on the Mexico-United States Interparliamentary Conference. It is an annual meeting which sees Members of this body and members of the Mexican legislature meet and discuss common problems, deal with the challenges and the relationships between our two governments in trying to encourage the building of ties within the private sector. One of the main items of discussion we had in the United States-Mexico Interparliamentary Conference over the past couple of years, has been the establishment of a North American free trade agreement, which is something that will be debated here on the floor of the Congress tomorrow, and has been discussed widely. If we were to establish a United States-Russian Interparliamentary Conference, it seems to me that this would create a great opportunity for us to discuss the challenges that we face as two nations, and at the same time create an opportunity for us to try to reduce some of the tremendous barriers that still exist, especially in the area of trade among the Republics and the United States and others in the West.

These five provisions which I am proposing, Mr. Speaker, I believe will go a long way in the realization that hard-earned taxpayer dollars in the United States cannot be simply thrown at the problem of those who are struggling to emerge from totalitarianism in the Commonwealth of Independent States. It seems to me that we have an obligation to utilize these five very creative proposals to try and bring about the kind of success that is there.

Yes, this is a once-in-a-lifetime opportunity. What are the consequences if we do not provide this kind of support? I believe that it has a direct correlation on the economic success here in the United States, and quite frankly our survival. There are many who want to bring about a reduction in the level of defense expenditures, and if we are going to ensure that we can do that, it is up to us to do everything possible to encourage the movement toward democracy and free markets.

So, this package, I believe, is a creative way in which we can try to deal with that problem. We have seen President Yeltsin, just 6 weeks ago, stand right behind me here, Mr. Speaker, in front of you and behind me, and deliver

an extraordinary address to this country.

On his visit, when he was here, he and President Bush signed an unprecedented agreement designed to bring about the elimination of those SS–18 heavy missiles, and we know that there are thousands of nuclear warheads still pointed at the United States. And if we are going to totally eliminate that as a threat, we have an obligation to do what we can to try and encourage these people into a market-oriented economy.

Many would ask why should we not just say that it has happened, the opportunity is now there for them to do it, and let them sink or swim.

□ 2120

The problem with the prospect of sinking, Mr. Speaker, as with the military capability that still exists in the former Soviet Union and the potential threat that is offered by some who would like to move back to a Communist totalitarian system means we have to do what we can to counter that.

There are forces within the former Soviet Union, some of which still wield a great deal of influence there. There are people the likes of Col. Viktor Alksnis, the Darth Vader of the Soviet military, who would like to see us shift back to the past, and there are many who would love to see this precious experiment which we have been enjoying for 207 years, nearly 207 years, and which is just beginning in its embryonic stages in the Commonwealth of Independent States, they would like to see it fail, so that is why we clearly, having expended that $4.3 trillion over the past several decades, have an obligation to do what we can to help them.

Mr. Speaker, I am opposed to blindly sending what I call nonexistent foreign aid dollars, but it is right that this is a once-in-a-lifetime opportunity, and we should only do it if we can ensure that those dollars do not go to the bureaucracy but, in fact, play a role in leading these people to attain the kind of self-sufficiency which they must have.

Mr. Speaker, I am including at this point in the RECORD a letter which I referred to earlier that has come from President Bush. It was to me, but I assume it went to my colleagues also.

THE WHITE HOUSE,
Washington, DC, August 3, 1992.

DEAR DAVID: As the House moves to consider the FREEDOM Support Act (H.R. 4547), I wanted to convey to you my strong backing for the bill and my hope that it will have the support of you and your colleagues.

I submitted the Administration's FREEDOM Support Act proposal in April and requested prompt Congressional action. On July 2, the Senate passed its version of the bill, S. 2532, by a bipartisan vote of 76 to 20. The Senate and House bills differ from the measure I proposed to Congress, but they contain most of the basic authorities which I requested. I hope that, working together, we can produce a conference report that serves as a bipartisan foundation for our assistance effort.

I am convinced that we now stand at a critical moment in history. Together with our allies, we have the once-in-a-lifetime opportunity to help consolidate democracy and free markets in Russia, Ukraine, Armenia, and other states and to turn former enemies into permanent friends and partners. Most important, we have the chance not only to help the peoples of Russia and the new independent states escape the long nightmare of communism, but also to secure for us and our children a future that is infinitely safer and more prosperous.

Six weeks ago, Russian President Yeltsin came to Washington. Together we defined a new era in our relations. In signing with me the Washington Charter, President Yeltsin made clear and unequivocal commitments to democracy, free markets, and security cooperation that no Soviet leader could have possibly contemplated. After tough negotiations, we signed a historic nuclear arms reduction package that will achieve the greatest measure of security for the United States since the dawn of the nuclear age.

President Yeltsin also reaffirmed his determination to build a free market in Russia and to push ahead with his program of radical economic reforms. Together, President Yeltsin and I established a new framework for vastly expanded U.S.-Russia trade and investment that will benefit our businesses and our workers for years to come. We signed new Tax and Bilateral Investment Treaties that will help our firms enter the Russian market, and the U.S. granted Most Favored Nation status to Russia.

President Yeltsin has boldly and unambiguously committed his government to the values that all Americans hold dear: democracy, freedom, and free markets. He has promised to uncover the darkest secrets of the communist past and to help resolve our deep concerns about American MIAs, POWs, and the KAL 007 tragedy. Now it is time for America to do its part to assist Russia, Ukraine, Armenia, and the other new states to make the historic transition from tyranny to freedom. Together, the Administration and Congress must send a clear message that we stand with them at this difficult hour, when they need our help most.

To those who say America cannot afford to assist these reformers at a time of domestic difficulty, I respond that no such false choice exists. We can—we must—meet challenges both at home and abroad.

The FREEDOM Support Act is not just another foreign aid bill. It is first and foremost an act of national self-interest, a direct investment in the political, economic, and security future of the American people. Having spent over $4.3 trillion to defend ourselves from Soviet totalitarianism during the Cold War, we can ill afford not to invest in democracy in Russia and Ukraine so that we can permanently reduce our defense burden. The resulting savings would be available for investment here at home. And by acting now to engage Russia and the new states, American firms, workers, and products will be well-positioned to take advantage of this large and rich market.

If we do not act now, we collectively will have failed to live up to the challenges and the strategic opportunity—perhaps the greatest this century—that this new relationship gives us. Now it is time for the House to join the Senate and pass the FREEDOM Support Act and then to meet in conference and pass a bill I can sign into law. To desert Russia, Ukraine, Armenia, and the other states at this time of need would be a tragic mistake for which history will surely judge us harshly. I therefore urge your support for early passage of the FREEDOM Support Act.

Sincerely,

GEORGE BUSH.

I hope very much we will be able to move ahead with this package and benefit not just the people of the Commonwealth of Independent States but the American people as well.

THIS NATION'S UNEMPLOYMENT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 60 minutes.

Mr. HAYES of Illinois. Mr. Speaker, might I put at ease your mind and the minds of the staff people who are still here and those Members of the House who have reserved time who are to follow me that I am not going to take the whole 1 hour.

Mr. Speaker, I rise to alert this Congress that our Nation is undergoing a real unemployment crisis which clearly constitutes an economic emergency. The calls of our unemployed, desperate citizens have gone unheard for too long and I have witnessed too many people suffer. During this recession I have seen many of our Nation's families not only lose their jobs, but also their health care benefits, and a dramatic reduction in their quality of life. While Congress has debated whether to continue funding for the space station and to send aid abroad, many of this Nation's citizens are facing real troubles like how they will finance their children's education, pay the mortgage, the rent, car note, insurance, utilities, food, and clothes. The unfortunate reality about this recession is the fact that it may only be the beginning of a long, sad, trend of permanent job losses because of the economic policies of the Reagan/Bush era. While our President has been instituting backward economic policies, many Americans have lost their jobs permanently to cheap laborers abroad, and have ultimately been abandoned and left out in the cold.

What has the Congress done to help the unemployed? Well, as usual we have passed a series of unemployment compensation extensions, which I supported, but this is no solution to this crisis. In fact the last extension we passed does nothing to help the long-term unemployed. We also passed the urban aid package, which is only a small attempt to stimulate growth. Why have not we created real jobs for the American worker that will provide our proud citizens with a self-sustaining way of life?

While our President has tried to blanket the truth about this Nation's unemployment crisis, the reality is that our unemployment rate has

soared and many Americans continue to suffer. Last year around this time the number of unemployed Americans was around 8.7 million. Today that number has risen to nearly 10 million or 7.8 percent, and the figure for African-Americans is at an even more distressing rate of 14.9 percent. For urban centers the rate is almost double that. What has been the reaction of our President? Absolutely nothing.

With a 9-percent unemployment rate in the city of Chicago, my constituents are being overwhelmed by this feverish wave of joblessness. They, like many Americans across the Nation, not only worry about their survival, but they also suffer from a sense of hopelessness, and depression. Many suffer inescapable social and economic alienation and family dissolution. It is no wonder why drugs, crime, and homelessness plague our urban streets. These times are hard, people are frustrated, and depression spurs unfortunate consequences. A jobs program is the answer to restore the sense of self worth, pride, and financial security in the attitudes of American citizens, and that is what is expected of this Congress today.

My colleagues, if any of you have been around as long as I have to have lived through the Great Depression of the 1930's, you will remember a time of increasingly high unemployment, high crime, feelings of hopelessness and despair, family dissolution and abandonment. I lived through the 1930's and I remember those desperate economic times, and it is sad for me to say, but the recessionary times of today closely resemble those of the 1930's. With the financial greed of the 1980's comparable to that of the 1920's we must not think that this recession is minor and temporary. Wake up Congress to the calls of your constituents and let's stand up to our responsibilities and implement a jobs program, a public works program like those that grew out of the Great Depression.

During the Depression, an array of public works programs were implemented. Some of those programs were the Federal Civil Works Administration projects [CWA] initiated by an Executive order in 1933. This program employed nearly 2 million workers and within 1 year that figure increased to 4.3 million people. There were the Public Works Administration projects that employed even more people to both heavy construction and labor-intensive projects.

□ 2130

Additionally, we must not forget the [CCC] Civilian Conservation Corps for the youth. I was a CCC worker and if it were not for that program my family would have had an even harder time feeding all of my 11 sisters and brothers. The 1930's were very desperate times, and it called for a progressive initiative of both Congress and the administration at that time. Right now, I say that these times are also crying out for some progressive action out of today's Congress.

There are many jobs bills currently pending before this Congress. The Vehicles await our action. I have a bill, the Infrastructure Improvement and Job Opportunities Act pending before Congress.

I would like to see some action on this bill or others before I leave this Congress, since this is my final term.

This bill will create employment opportunities at local job projects that renovate the infrastructure of this Nation's roads, bridges, public housing, public schools, and historic sites. Our Nation's infrastructure is decaying and needs improvement. While driving down some of the pothole-infected streets of my home town of Chicago, and even the Nation's Capitol's roads, the need for repair is more than obvious. This bill would not only accomplish cleaning up our Nation's infrastructure and employing this Nation's citizens, it too, provides real training that will later translate into real and permanent jobs. The crisis is great and we must respond. My bill does not have to be the vehicle, there have been over 100 jobs related bills introduced in this Congress.

I know that many of my colleagues all endlessly complain about the cost of a jobs bill and I understand the fiscal restraints we are faced with. However, who stood on this floor and complained about the cost of the political deployment of United States troops to Kuwait earlier this week? Who stood on this floor and complained about the obscene cost related to the savings and loan bailout? The very same folks that will oppose an effort to put this Nation back to work. The return that will be realized when the workers of American have jobs will be great. We must and can find the necessary financing.

The phone calls have been flooding in indicating the real magnitude and unacceptable duration of this crisis. Federal intervention is now of uptmost importance and the survival of the people we represent is at stake. I call on this Congress to address the real problems of this country and to implement a job program before we recess.

IS THE GOVERNMENT UNDERMINING THE PATENT SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, our trade negotiators are busy with discussions at the General Tariffs and Trade meetings in Geneva, as the final touches are put on the Uruguay round and the GATT trade talks. What they should remember in these negotiations is the central importance of the American patent system to the economic well being of the Nation. Patents are, and have been, the engine of our technological leadership.

Americans live in a society that has many choices of desirable products in the stores, so it is easy to forget the role of patents in making so many products available to the consuming public in making our lives easier.

Inventors who are well known to us from years past fully understood the importance of the patent system. One of those who understood its significance was Dr. Edwin Land, inventor and founder of Polaroid who said, "I must emphasize that the kind of company that I believe in cannot come into being and cannot continue its existence except with the full support of the patent system."

Another example of support for the patent system came from Irving Shapiro, chairman of E.I. duPont de Nemours & Co., who pointed out that "Du Pont had worked on the development of nylon for twelve years and spent almost $27 million in research utilizing the basic patents originated by Wallace Caruthers." He went on, "More than three million people have jobs in the production of nylon textile and plastic products, and all of this traces back to the handful of key patents behind the invention and development of this one product." Those words were spoken years ago, but they still hold true today.

In today's market, tracking patent trends is used as a tool to judge the competitiveness of a firm, and to help in decisions on mergers and acquisitions of companies.

Protecting intellectual property, which includes patents as well as copyrights and trademarks, has become a big business. The Financial Times reported that Lane Mason, principal analyst at Dataquest, a high-technology firm of San Jose, CA, stated that "It's a booming business and there is lots of money to be made in it if you have a patent."

He estimated that, "Last year, publicly known licensing fees that were paid in the semiconductor industry alone came to roughly $800 million, compared with about $300 million in 1986.

Mr. Mason also said, "Intellectual property is becoming a new commodity that's being priced at whatever the market can bear." The Financial Times noted that "The aggressive stance of the patent holders is such that some in the industry believe there would even be a shift in the balance of power away from companies which succeed on the strength of their low-cost manufacturing and marketing ability, in favor of those which have patented technologies."

Mobil Oil, according to Business Week, discovered the importance of

patents when Mobil executives realized after a patent search that, "Their competitors were often better at patenting applications for the very materials Mobil had discovered." Mobil executives realized the error, and with more budget and effort, were able to protect Mobil's products by utilizing the patent system.

Mobil's plight was not unusual. American companies many times have not protected themselves adequately with the patent system.

The Washington Post reported in 1989 that the U.S. International Commission reported that "431 companies suffered aggregate worldwide losses of almost $24 billion in 1986 because of inadequate intellectual property protection." That figure increases each year.

If patents are so important to our economy, then how are we doing with new patents, and what are the problems with the system?

First, we are not doing so well with patents. According to the United States Patent and Trademark Office, four of the top five firms filing for United States patents are from Japan. They are Hitachi, Toshiba Corp., Canon, and Mitsubishi. General Electric Co. was fifth. In fact, Eastman Kodak and IBM were seventh and ninth on the list, and the balance of the top 10 filers were Japanese.

Of 96,514 patents granted in 1991, foreign patentees received 45,000 patents. The Washington Sunday Times reported that 21,000 patents went to Japanese firms, which meant "Japan is the leader among foreign nations for the 17th year in a row."

The New York Times reported in an article entitled "In The Realm of Technology, Japan Looms Ever Larger" reported that "High-quality patents are seen by many experts as potent indicators of a nations future prosperity because they signal the emergency of important new technologies that will be under the patent holder's exclusive control for many years." The explanation offered was "Superior scientificate papers are considered important to a nation's industrial health because inventors increasingly rely on basic research to compete effectively in the international race for commerical innovations."

The article noted the rise of Japan in sophisticated technology areas. It showed the United States with 104,541 influential patents and Japan with 76,984 influential patents.

The countries in Europe that are pushing the intellectual property process in GATT are lagging far behind the United States in influential patents: Germany has 17,643, France 7,672, Belgium 330, Sweden 1,124, Great Britain 8,795, Canada 1,156, Italy 1,106, Switzerland 5,002, the Netherlands 5,737, the former U.S.S.R. 400, South Korea 400, and Taiwan has 1,000 influential patents.

Quick addition of those figures reveals that the top 15 countries for influential patents, not counting Japan and the United States, have only 50,365 influential patents. Adding in Japan's 76,984 patents brings to 127,349 a grand total of influential patents for the top 14 countries in the world versus the United States of 104,541.

Led by Germany, in the intellectual patent discussions at GATT, those 14 countries are pushing a radical change for the American patent system, and surely will erode our lead in influential patents. They are pushing for the European or world system of first-to-file instead of the American system of first-to-invent.

As one of my intellectual property lawyer friends remarked on a recent television show, the joke in Geveva is "The Germans negotiate with themselves and then come out and tell you how it is going to be in intellectual property." Judging by these figures of influential patents, the Americans should be negotiating and telling the other 14 countries how it is going to be.

A friend of mine in the automobile industry commented that "Patents are a scary threat for American industry with foreign countries taking so many patents, we could easily in ten years be paying royalties to Japan for everything we want to do." He is right.

Patents are the backbone of American industry and they are also the source of job creation and wealth. Business Week noted in a recent article "Global Innovation: Who's In The Lead?" that business strategy is often detected by tracing patent trends.

Reviewing the patent figures the New York Times listed in the article I mentioned earlier, it clearly shows the preeminence of the United States, but also reveals how quickly we can lose our lead in the patent field—and as an industrial nation.

Those figures from the New York Times raised an interesting question. Why are we working so hard to give away an advantage in patents? The United States has pushed over the years a number of conventions on patents with what I would guess, was a desire to ensure the dominance of the American patent system and help American firms do business around the world. But that does not apply today in our talks since the American system is the best in the world.

Our patent system is unique. The December 2, 1991, issue of Business Week explained the U.S. advantages in an article "Is It Time To Reinvent The Patent System?" The article stated that "Many domestic companies favor the first-to-invent system because it gives them an edge. A U.S. patent cannot be rejected or overturned because someone shows up claiming to have invented it first outside the U.S."

In fact, the Patent Commissioner Harry F. Manbeck Jr., has been quoted as saying "The U.S. system is not functioning improperly or ineffectually * * *. We wouldn't make any changes were it not necessary to compromise."

That compromise he mentioned are the GATT talks on intellectual property. The article noted, "The nature of those compromises is a key part of the drive for patent reform. The World Intellectual Property Organization and trade negotiators are working to harmonize the world's patent laws. Harmonization, by its very function, means the standards are lowered. The unique U.S. system has worked to make the United States an industrial and technological power until now.

The U.S. Patent Office and many American companies now appear willing to switch to first-to-file and end the secrecy of patent applications in exchange for broader protection for new drugs and faster examinations elsewhere."

What good will faster examinations do, if the patent is not protected? It is well known by American companies how the first-to-file operates in Japan. The National Journal explained "It is up to those who think a patent should not be granted to oppose it. And to permit such opposition, applications are laid open for public inspection 18 months after they are filed."

American stories abound on how the Japanese Government uses the system forming consortium to work on patent information. Allied Signal, is a large company from my district, and one of the firms used to make up the Dow Jones Industrial Average, learned how this works. It had its Metglas patent infringed on by companies working in such a consortium. In Japan, laying open the patent system after 18 months invites imitators to file on a patent.

The National Journal explained what happens when the Japanese file around a patent. It noted that "Multiple patents enable Japanese companies to surround an American technological advance with Japanese patents, effectively rendering the U.S. patent useless."

Inventors tell me that the first-to-file system will invalidate the inventors' notebook. They feel that under this system, anyone who is adept at infringing on patents will prosper and certainly will put the lone American inventor at a distinct financial disadvantage.

It takes a resource of time and money for a patent to realize its full potential, and with the harmonized system it will be difficult for the individual American inventor.

Along with the GATT talks, the patent system has taken a beating here in the United States. In 1982 we changed the fees on filing a patent and instituted maintenance fees. We no longer automatically give a 17-year grant, but one for 4 years. If the maintenance fees are paid, then an applicant can have a 17-year grant.

According to my friend, Bill Schlesinger, Jr., who is a patent attorney and an inventor holding 118 patents, "Nearly 40 percent of the patents granted to individuals in the past 9 years have expired for failure to pay the extension or maintenance fees required before the end of the 4-year grant."

He explained, "Many inventors become discouraged, when they have been unsuccessful initially in marketing their inventions. Four years is insufficient time to find out if they have something worthwhile."

My friend stated, "Fallout from the impact of these new fees has carried over the U.S. Government patents. Remember, those patents are paid for by the taxpayers. Over 50 percent of these U.S. patents issuing in the last 9 years have been allowed to expire even though the potential value of these inventions by the government could have been maintained for the full 17 years had the maintenance fees been paid." When a patent is released it then goes into the public domain for anyone to pick it up.

The fees, according to Bill, were increased in 1990 by 69 percent by tacking the change onto the budget bill. The budget of the Patent and Trademark Office has increased 350 percent in the past 10 years while the workload of patent applications has increased only 60 percent.

In a letter to Congress, my friend pointed out a stunning fact that "U.S. Government fees to obtain and maintain a U.S. patent have increased more than 4,000 percent in the last 12 years."

American patent fees are higher than any country in the world. Our inventors pay the fees, as do our businesses, but remember many foreign firms who patent in the United States are subsidized by their governments. Now we are raising the fees again by another $12 or $13 million, which will be a severe financial problem for our inventors. One of the Big Three automakers dropped 100 patents because of the high costs of fees.

Perhaps we should examine more closely how the increased fees actually have been used. The Patent Office supposedly installed a computer system to simplify the process of patent searches. What they did was invest in an old cast-off system from an airline and then found out after spending $400 million or so that it didn't work. That money is wasted and we still do not have a functioning system, while we are financially strangling our inventors.

I believe there is an another important point that added to this financial fiasco. During the budget summit of 1990, Members of Congress recommended increasing user fees for Federal agencies to aid in decreasing the budget deficit by $120 billion over the next 5 years.

At that time the Patent Office share was determined to be $500 million or 0.1/10th percent of the total deficit reduction amount. Increasing user fees by 25 percent covered the Patent Office share, but it became a financial burden for the inventors—the very people whose work we rely on for ideas to create products and industries which employ other Americans.

This Federal Government action is certainly a far cry from the way inventors have been treated since the Constitution was signed. As a class inventors were the only group of people protected in the Constitution. In 1787, Congress was empowered to promote the progress of science and the useful arts. The first U.S. Patent was granted in 1790 to Samuel Hopkins for an improvement in making potash and pearl ash in making soap.

As my friend, Bill Schlesinger, pointed out, "With this patent, the United States, a small struggling nation, was on its way to becoming, through it inventive genius, the greatest industrial power in the world." Today the United States has granted over 5 million patents which have resulted in new products and new industries giving employment to millions of Americans.

We must realize that the patent system is the secret of our industrial might, it is the goose that laid the golden eggs, which are our patents. If we do not act soon to protect our system and American inventors by changing our fee system, we will be killing the goose that laid the golden eggs.

If we change to a first-to-file system, we will no longer be protecting our inventors as a class as the Constitution originally spelled out. We will be putting them directly into a tough battle to protect their ideas for the United States with foreign companies countries who are subsidized by their governments. Surely, we can do better than this to protect the inventors who are the real secret of the American system.

Remember, that Japan determined in the 1930's and again just 10 years ago that the secret of American industrial might was our patent system.

If we kill the golden goose then literally all Americans will suffer financially. We will then pay our patent royalties to firms from foreign countries.

The American people should rally to the side of our inventors and stop this nonsense. I am on their side.

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FRANCIS GILDERNEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, on May 14, I received a letter from Mr. Edward G. Brady, a constituent, in which he notified me that on April 16, Holy Thursday, Mr. Francis Gildernew, of Poughkeepsie, NY, in my congressional district, was arrested by FBI and Immigration and Naturalization Service agents.

"The arrest was made at Francis' home by some 8 to 12 agents, who entered the home with drawn guns. Mr. Gildernew was handcuffed and taken to the Varick Street Detention Center." Mr. Brady goes on to say "Francis' wife learned at 11 a.m. on Good Friday (April 17th) that cash bail of $50,000 was set and had to be paid by 3 p.m. that afternoon if Francis was to be released in time for the Easter holiday."

It was in this way I learned that the civil rights conflict which has tragically torn the social fabric of Northern Ireland for over 24 years, had borne its bitter fruit across the Atlantic Ocean in the 21st Congressional District, in rural upstate New York.

What had he done to be held in the Varick Street Detention Center for 6 days? Why, when bail was set, was it set at $50,000 in cash?

Mr. Speaker, while my outrage at the handling of Mr. Gildernew, a respected member of the Poughkeepsie, NY, business community, by our Government agents is new, my sense of injustice at the British handling of the Catholic minority in Northern Ireland is not.

In 1978, I was one of two members of the House Judiciary Committee to investigate immigration and judicial conditions in Northern Ireland. The title of the report issued about that investigation is: "Northern Ireland: A Role for the United States."

This report covers our inquiry into the current troubles in Northern Ireland, from their inception in the civil rights marches of October 1968, led by Catholics seeking an end to discrimination in voting, housing, and employment; to the Downing Street Declaration of August 1969, marking the British assumption of the maintenance of law and order in Northern Ireland; to the hunger strikes in the H blocks of Long Kesh Prison, which resulted in the death of Bobby Sands, an elected member of Parliament, and nine other prisoners.

The memories of these harsh happenings were refreshed in my mind at the time of the arrest of my constituent, Francis Gildernew. It was action by his family that had provided the spark which lit the fuse for the civil rights marches of 1968, which in turn, exploded into the tragedy that has been ongoing in Northern Ireland for the past 24 years.

In 1967—when Francis Gildernew was only 15—a 15-unit housing project was built in his hometown in County Tyrone, with the understanding that 8 units would be allocated to Protestants and 7 to Catholics. After Protestant families had been placed in 14 of these houses, and the 15th was to go to an unmarried Protestant, Gildernew's mother, with a family of 10, directed his sister to go live in that 15th house. She stayed there for 9 months, until she and her three children were forcibly evicted in 1968. This triggered the civil rights marches in October 1968.

It should come as no surprise, therefore, that the Gildernew family became a high profile target for Protestant Loyalists. The family was threatened by the Loyalists, and at one time had to flee to the Irish Republic. At another time, their house was fired upon either by Loyalists or British forces, narrowly missing Mrs. Gildernew. Then, a bomber was placed

under a truck on the farm of Gildernew's brother, Patrick. Another brother, Anthony, was abducted by British paratroopers and told he was to be summarily executed. Fortunately the British troops fired blank ammunition.

This, then, is the violent social climate in which young Gildernew was raised: A climate which saw him arrested at least 10 times before he was 23 years old, each time held for several days and subjected to intense questioning.

British soldiers, introduced into Northern Ireland in 1969 as peacekeepers, were at first welcomed as saviors by the Catholic population. But this attitude turned to hostility when it was realized that these soldiers, supposedly there only to keep the peace, were in fact engaging in constant searches of Catholic homes and were applying the law repressively against Catholics. A guerrilla conflict then erupted between the British troops and the Irish Republican Army. By the end of July 1971, 12 British soldiers had been killed on the streets of Northern Ireland.

In August 1971, the Special Powers Act was used to introduce internment to Northern Ireland, under which a person could be deprived of liberty without charge or trial. Under this act, those suspected of antigovernment activity were arrested and interned in what was the equivalent of prisoner of war compounds. In August of that year, 342 men were arrested. Within 6 months, total arrests had risen to 2,357, with another 1,600 detainees released after interrogation.

In 1972, Britain abolished Northern Ireland's Parliament, and direct rule of Northern Ireland was assumed by Westminster. One of the early moves under direct British rule was the replacement of the Special Powers Act by the Northern Ireland (Emergency Provisions) Act of 1973, which was developed by a commission chaired by Lord Diplock.

It has been accurately said that:

> Both the Special Powers Act, and the Northern Ireland (Emergency Provisions) Act, constitute an effective abrogation of the rule of law, in the sense that under them the security authorities retained the power to arrest and detain anyone they pleased without having to give any justification and without fear of being called to account in respect to any decisions later shown to have been justified.—K. Boyle, T. Hadden, and P. Hillyard. "Law & State. The Case of Northern Ireland" (1975).)

It should be noted that at the time of the 1976 arrest of Francis Gildernew, in conjunction with the Emergency Provisions Act, the Prevention of Terrorism—Temporary Provisions—Act of 1976 was also used. This act allows for the deportation of individuals suspected of terrorism from Great Britain back to Northern Ireland. It also allows for the detention incommunicado, and questioning for up to 7 days, of any person suspected of a breach of the act.

It was on May 1, 1976, that Gildernew, then 23 years of age, was arrested without warrant in Northern Ireland and questioned about a land mine which had been found near the hamlet of Benburb. After 3 days of interrogation he was released. In the hope of finding work, he then flew to Birmingham, England. He was arrested at the airport by members of the notorious Birmingham Constabulary who were awaiting his arrival.

For 6 days he was questioned by the Birmingham police. Questioned? Let me quote from a British Commission report, "Report of the Enquiry Into Allegations Against the Security Forces of Physical Brutality in Northern Ireland Arising Out of Events on the 9th of August, 1971," Cmnd. 4823, 58–67 (1971), the Compton Committee, of the sort of questioning that was, and I fear might well still be, used:

> 1. Subjecting a detainee to continuous and monotonous noise of a volume to isolate them from communication.
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> 2. Depriving a detainee of sleep during the early days of interrogation.
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> 3. Depriving a detainee of food and water other than one pound of bread and one pint of water at six hour intervals.
>
> 4. Making the detainee stand against the wall in a required position. This means facing the wall, legs apart, and hands raised against the wall for long periods of time. Long periods of time can be as long as six or eight hours.

This is called being spread eagled, and from those who have suffered it, including my constituent, Mr. Gildernew, I have been told it is the most excrutiating torture.

In addition to these interrogation methods, Francis Gildernew has told me he was repeatedly beaten, and at one time held and pressed forcefully over the back of a chair until it was impossible for him to breathe.

After 6 days of this form of questioning this young man confessed. He signed an already prepared confession that he had placed the land mine, and that he was a member of the Provisional Irish Republican Army.

I suspect that given the methods of interrogation used, anyone in this Chamber, even though he or she had never even set foot in Ireland, would confess to exactly the same charges.

Francis Gildernew has told me he is innocent of the charges to which he confessed. And I believe him. The question of his guilt or innocence, however, has never been properly adjudicated. The fact is, he did not get what would be considered a fair trial by American standards.

I wish to stress that his confession was extracted from him by the notorious and feared Birmingham West Midland Police Force. This is exactly the same force, using exactly the same methods of interrogation, who were responsible for the imprisonment for life of the so-called Birmingham Six. These six innocent men were beaten into confessing crimes they had not committed. Finally exonerated and released on March 14, 1991, these innocent men had served 16 years in a British prison. Even more recently, there is the case of Judith Ward, who was released from prison on May 11, of this year, after serving 18 years for terrorist crimes. She, too, was exonerated. Another example of wrongful imprisonment was the case of the Guilford 4 who were finally exonerated and released after serving 15 years in prison.

Following his confession, Francis Gildernew, was immediately returned to Northern Ireland where he was convicted and sentenced to 12 years imprisonment. Of that term he served 8 years in the Maze Prison, Long Kesh.

It should be noted, I believe, that after 6 days of torture and being forced to confess to crimes he did not commit, Francis Gildernew was tried in what is known as a Diplock court. These courts are so named after Lord Diplock, previously mentioned. In the Diplock courts, trials are conducted without juries for crimes classified as scheduled offenses. Scheduled offenses, as defined by the Northern Ireland Emergency Provisions Act, are crimes committed to achieve political ends.

The ironic outcome of this concept is that a common thug, committing a common crime, would receive a jury trial, while anyone accused of a politically motivated crime would not.

It might be worth noting that at the beginning of 1968, prior to the start of the troubles, the total prison population in Northern Ireland had been only 727. By 1974, this count had soared to 2,448. Also prior to the troubles, there had been only one prison for men, the Crumlin Road Prison, built over 100 years ago in the middle of Belfast, and the Armagh prison for women, built about the same time in the city of Armagh.

The rising number of prisoners caused the Government to begin emergency building of the temporary detention camps of Long Kesh—now the Maze Prison—and later, a similar temporary facility at Magillian. These temporary facilities were of a compound type, each compound holding several dormitories, dining and recreation huts, and an open space for exercising. Each compound was surrounded by a high wire fence, and these surrounded by a strong security fence with watch towers manned by British soldiers at various points. It was in these temporary detention areas that the permanent H block cells were built, after questions regarding health conditions and prisoner control were raised. They were called H blocks because they were built in the form of an H.

It must be remembered that throughout this period 1971–1976, prisoners in these compounds were recognized as special category political prisoners. They wore civilian clothing, visits with their family were permitted, and they could purchase items if they had the funds. They were essentially prisoners of war, and were so considered both by themselves and by the government.

At the time of Francis Gildernew's arrest in 1976, the recommendations of a "Committee to Consider, in the Context of Civil Liberties and Human Rights, Measures to Deal with Terrorism in Northern Ireland", chaired by Lord Gardiner, were just being instituted. That report urged the removal of special category status for all of those imprisoned for charges of a political nature, which took place after March 1, 1976.

Francis Gildernew was actually imprisoned for an offense which occurred in 1975. He believed he was entitled to recognition as a special-category political prisoner. The two men accused and tried with him for the alleged land mine attack were both formally recognized as special category political prisoners. However, an additional charge of membership in the IRA, which continued beyond March 1, 1976, was added to the charges against Mr. Gildernew. By this device, Mr. Gildernew, who was entitled to special-category status and treatment as a political prisoner, was denied such status on the additional charge. So, imprisoned for political offenses for which he

was entitled to special-category status even under British law, Francis Gildernew found he would be treated as a common criminal.

It was the British Government decision to eliminate special status that gave rise to the prison protest which became known as the blanket protest. Stripped of their civilian clothing, but refusing to wear prison uniforms, the political prisoners lived naked in their cells with only one blanket.

The blanket protests in turn gave rise to the hunger strikes, in which Mr. Gildernew also volunteers to participate. Beginning in May 1981, Bobby Sands and nine other prisoners died during these hunger strikes. After the strikes were over, these prisoners were again allowed to wear their own clothes. Though the British Government does not acknowledge political status today, it is fair to observe that if people are arrested in a special way, detained in a special way, interrogated in a special way, tried before a special court and sent to a special prison, they are in effect receiving special status.

Upon his release from prison in 1984, Francis Gildernew came to the United States. After 8 years in Long Kesh, after 3 years on the blanket, after participating in the hunger strikes, and after a lifetime of strife, he longed for a new start in a new land, the United States of America. It was the same longing which motivated our fathers, our grandfathers, and our great-grandfathers.

Francis entered this country legally on a visitor's visa. On the basis of his marriage to an American citizen, Sharon Ann Tierney, in April 1985, he became eligible for, sought and was granted an adjustment to permanent resident status. He worked as a carpenter and they saved their money until they could realize their dream of owning a business of their own. They purchased a restaurant/bar in Poughkeepsie now known as Gildernew's Irish House. It is the story of so many immigrants to this great land. It is the very essence of the American Dream. It is what makes our land the envy of every other—a land where, through hard work, the average man's dream can come true.

But all this changed. On the morning of April 16, 1992, Francis Gildernew was arrested in his home in Poughkeepsie, NY, by 8 to 12 federal agents, who stormed into his house, guns drawn. He was shackled and jailed in New York City.

Why would this happen to a man who led an exemplary life in this country since 1984? Why would it happen to a man who had not even gotten a traffic ticket in his 8 years in the United States? These are good questions.

The INS warrant for his arrest charged Gildernew with fraud. It is alleged he had committed fraud in applying for his green card when he answered "no" to the question of whether he had ever been convicted of a crime of moral turpitude in his home country.

And why did he answer "No"? Because he believed he had been a political prisoner, even under Britain's own rules.

The question must arise, after 8 years in this country, why did the INS and the FBI suddenly appear, guns drawn, to serve a warrant for his arrest? After all, the alleged fraud of which he is accused occurred years ago.

I asked Mr. Gildernew this. He said he believes it is due to his prominent advocacy of the adoption of MacBride principles contract compliance legislation by the State of New York. The thrust of this legislation is that no company doing business in Northern Ireland could be awarded a contract with the State of New York unless it complies with the MacBride principles of nondiscrimination. MacBride principles legislation has been passed by 12 States and 30 cities, and is pending in numerous others.

As the author and principal sponsor of the MacBride principles bill in the House of Representatives, I am very sensitive to this issue and am well aware of the British dislike of the idea. It is hard to avoid the inference that a respected businessman, admitted for lawful entrance to the United States, places himself in danger for agreeing with his Congressman's position on this issue.

It is unconscionable that Mr. Gildernew could be victimized by the American Government for espousing his belief in human rights and his support for legislation requiring nondiscrimination.

Mr. Speaker, I believe the time is long overdue for a reassessment of our Government's attitude toward British policies in Northern Ireland. For too long have we allowed a so-called special relationship to blunt our sense of fairness and justice as it relates to the human rights of the Catholic minority in Northern Ireland. I suggest that should the horrors which I have attempted to outline tonight, have been committed by any nation other than Great Britain, we would have long since imposed sanctions against it.

Francis Gildernew is only one person caught up in our national indifference to the cruelty being perpetrated upon the Catholic minority in Northern Ireland. We, as a nation which in 1966 waived in nearly 2 million illegal aliens who had committed just as much or more fraud than he is accused of, should cease harassing and attempting to deport a hard-working man like Francis Gildernew.

We cannot survive as the envied land of a second chance if we allow our own system of justice to be brutalized and made indifferent to human suffering. I for one, believe that the Americans I know do not want our land to become blind to the concept of mercy or calloused toward the suffering of others. They do not wish our symbol of justice to be that of Joseph Doherty, a man held without charge, in a prison without bail, for 9 long years, only to be spirited back to Northern Ireland.

Mr. ENGEL. Mr. Speaker, I want to congratulate my colleague from New York for organizing this important special order in support of Francis Gildernew. Unfortunately, the court system and the Justice Department have too often implemented British foreign policy here in the United States. I am deeply concerned that Mr. Gildernew's situation will turn into the legal travesty that Joseph Doherty's became.

I strongly believe that Mr. Gildernew has been subjected to harassment because he has been active in the MacBride principles campaign in the United States. He has lived here in the United States since 1984 and has been a law-abiding citizen.

Why, after all these years, did the FBI and the INS decide to act on information that they have undoubtedly had in their possession for years? I think the reason is very clear: Mr. Gildernew supports policies opposed by the British Government. The British Government doesn't like to admit that it has allowed and even condoned biased hiring practices in the North of Ireland for decades. It doesn't like to admit that it treats Catholics in the North as second-class citizens in a system that smacks of the apartheid policies of the South African Government. It doesn't like to admit that Amnesty International, one of the world's leading human rights organizations, regularly condemns British human rights practices in the North.

Francis Gildernew has first-hand knowledge of these abuses. Before the age of 23 he was arrested at least 10 times under the Special Powers Act which provides for arrest without a warrant. In 1976, he was arrested, again without a warrant, and questioned about the placing of a landmine near the village of Benburb. After 3 days, he was released without being formally charged with a crime.

Mr. Gildernew then flew to Birmingham, England to look for a job where he was arrested again. Over a 6-day period he was subjected to a variety of tortures at the hands of the Birmingham police. He was beaten repeatedly and pressed forcibly over the back of a chair until he could not breathe.

Eventually, Mr. Gildernew signed a confession to a crime he consistently maintains he did not commit. Considering the abysmal record of the British judicial system, I believe Mr. Gildernew. The Birmingham Six, the Guildford Four, and Judith Ward have convinced me that the British court system frequently fails to uphold justice with tragic human consequences. The Birmingham Six gave up 16 years of their lives because they were convicted of crimes which it was later demonstrated they did not commit. Judith Ward served 18 years in a British prison for a crime she did not commit. Is it any wonder that the British judicial system comes under international criticism?

Mr. Gildernew was convicted on the basis of his confession and sentenced to 12 years in prison. In 1984, he came to the United States certifying that he had not been convicted of a crime of moral turpitude. Because he had not committed any crime and because he did not wish to end up in an interrogation room in British-controlled Ireland again, he felt that this was a justified action.

Mr. Gildernew has lived here in the United States with his American-born wife even since. He has not even received a traffic ticket in those 8 years. Why now, after 8 years, have the FBI and the INS decided to arrest Mr. Gildernew? The FBI and the INS cooperate extensively with British security forces in the North. The information about Mr. Gildernew's prison record under British jurisdiction has been available since his release in 1984. Why have these agencies waited so long to act?

There is little doubt in my mind that the timing of Mr. Gildernew's arrest was politically motivated. His activism on behalf of the Macbride principles campaign angered the British Government who in turn have taken advantage of the United States special relationship with the United Kingdom to have him arrested. If enforcing British discrimination against Catholics is the price of that relationship, maybe we should reconsider our relations with Britain.

As Mr. Gildernew's case is adjudicated, I strongly feel that the broader picture must be taken in account. The background of British abuse and injustice, the years wrongfully imprisoned, and his exemplary record here in the United States must all be taken to account. For justice to be done we must not emulate the injustices perpetrated in the North of Ireland.

Mr. MANTON. Mr. Speaker, I rise today to join my colleague and fellow cochairman of the ad hoc Committee on Irish Affairs, HAM FISH in this important special order he has organized to draw attention to the plight of Mr. Francis Gildernew.

Francis Gildernew came to the United States, like so many other Irish-Catholics from Northern Ireland, to escape persecution. His problems there had begun in 1967 when his family became a target for Protestant Loyalists simply because they protested discrimination against Catholics in a local housing project. In the years that followed, Francis was arrested 10 times without charge. Subsequent to each arrest Mr. Gildernew was held for several days and subjected to persistent questioning.

On the occasion of his 11th warrantless arrest, Mr. Gildernew was questioned about a land mine found in the village of Benburb. Like they had routinely done before, the police held Mr. Gildernew for 3 days and then released him. To escape this continued persecution, Mr. Gildernew attempted to flee to England; however, he was arrested at the airport by the Birmingham constabulary. He was then interrogated and beaten. After 6 days of this treatment, Mr. Gildernew signed a prepared confession, in which he admitted to planting the land mine in Benburb. Mr. Gildernew was then tried without a jury, because his case was classified as a scheduled offense, which was defined as a crime committed to achieve political ends.

Mr. Speaker, it is important to note that the tactics used by the Birmingham police in Mr. Gildernew's case were not unusual. Warrantless arrests and interrogations without the benefit of counsel or the right to silence are commonplace in Northern Ireland, as are trials without a jury and forced confessions. Leading human rights organizations including Amnesty International have cited Northern Ireland for persistent police misconduct and judicial irregularities. While the convictions of celebrated prisoners like the Maguires, the Birmingham Six, and the Guilford Four have recently been quashed, we must be mindful that other victims of the criminal justice system in Northern Ireland continue to suffer.

After his release from jail, Mr. Gildernew settled in the United States where he married an American citizen, Sharon Ann Tierney, and obtained his green card. After working for 4 years as a carpenter, Mr. Gildernew seemed to have achieved his dream. He had saved enough money to buy a restaurant and bar and most importantly, he now lived in a country where peaceful protests were not met with official harassment.

However, Francis Gildernew's dream was shortlived. On April 19, a team of INS and FBI agents burst into his home and at gunpoint arrested Francis and told his wife he would be subject to immediate deportation, because he allegedly committed fraud on his green card application.

Unfortunately, it has been rumored that the only reason Mr. Gildernew has been prosecuted under immigration law is because of his outspoken support for passage of the MacBride principles which are designed to hasten an end to employment discrimination against Catholics in Northern Ireland.

Mr. Speaker, the failings of the criminal justice system in Northern Ireland are well known. Mr. Gildernew's convictions are thus more than suspect. However, if we were to accept Mr. Gildernew's conviction as valid, he would still be entitled to stay in the United States because even the British Government considers his so called offense political in nature and the political exception clause of our Immigration Act provides political asylum for individuals whose offenses are political in nature.

Mr. Speaker, Francis Gildernew's case is now before the courts. It is time for the American judicial system to differentiate itself from that of the United Kingdom. It is time to show that no matter what your ethnicity, you are entitled to fair treatment under U.S. laws, including our immigration laws. It is time to show that individuals in our country will not be subject to official harassment simply because they speak their mind on political matters.

Mr. Speaker, the freedom of our people is grounded in the simple principle which is inscribed above the entrance to the Supreme Court building: "Equal Justice Under Law." If our government singles out Francis Gildernew for unusual treatment because he is seeking protection from our ally the United Kingdom, we all suffer. I urge the Justice Department to cease the proceedings against Francis Gildernew and provide him the status he so clearly deserves.

Mr. GILMAN. Mr. Speaker, I would like to commend my good friend, the distinguished cochairman of the ad hoc congressional Committee on Irish Affairs, the gentleman from New York [Mr. FISH], for holding today's special order as well as for his continued and longstanding dedication to the issue of human rights, peace and justice in Northern Ireland.

As a cochairman of the ad hoc committee, I have been long involved in the struggle for peace, justice, and freedom in Northern Ireland. Tragically, the situation in Northern Ireland today remains deeply troubled.

However, I was shocked to learn that the hate, mistrust, and rampant violations of human rights have spilled over across the Atlantic to the mid-Hudson Valley. On April 16, 1992, Francis Gildernew, a native of Tyrone County who had first come to our country in 1984, was arrested by some 8 to 12 FBI and Immigration and Naturalization Service Agents and charged with fraud in applying for his green card.

On the surface, this case appears to be fairly simple. Francis Gildernew had in fact spent 8 years in prison in Northern Ireland, and had in fact answered "no" when asked on his green card application whether he had ever been convicted of a crime of moral turpitude in his home country.

However, as one who has been closely involved in the situation in Northern Ireland, I can say that there is much more that needs to be said in Francis Gildernew's defense.

Francis entered this country legally on a visitor's visa, and subsequently married an American citizen, Sharon Ann Tierney in April 1985, at which point he was granted an adjustment to permanent resident status. Throughout the past 8 years, Gildernew has been an outstanding member of the community. He began working as a carpenter, and eventually, he and his wife saved enough money to purchase a business, a bar in Poughkeepsie now called Gildernew's Irish House. Throughout this period, Francis has epitomized the American dream, that anyone, regardless of their origins, can come to the land of freedom and pursue their dream. Additionally, it should be noted that Francis, in the time that he has spent in the United States, has never even received as much as a parking ticket.

However, there is the question of his time spent in a political prison in Northern Ireland. However, some background is necessary at this point. As my friend from New York has pointed out, Francis Gildernew came from a family whose plight in 1968 sparked the now famous civil rights marches of that time in Northern Ireland. Coming from such a family, it is predictable that he would face harassment throughout his life.

On May 23, 1976, Francis Gildernew was arrested without warrant in Northern Ireland and questioned regarding a land mine that had been found near the hamlet of Benburb. After 3 days of interrogation, he was released. Following this experience, he flew to Birmingham, England to look for employment, and was arrested at the airport. After 6 days of questioning, which included beatings and torture, Francis Gildernew signed a prepared confession that he had placed the land mine and was a member of the IRA.

Mr. Speaker, Francis Gildernew states that he was innocent of these charges and was forced into a confession. Further, I might add that his trial was conducted before a Diplock court, a court with no jury reserved for political and terrorist cases.

Based on recent events in Northern Ireland, such as the review and overturning of several convictions obtained under the same conditions as Francis Gildernew suffered, I would tend to look skeptically upon the British Government's claims that Gildernew was indeed guilty.

One only has to look at the cases of the Birmingham Six and the Guildford Four, to see the similarities between the cases.

During an ad hoc congressional Committee for Irish Affairs and congressional human rights caucus hearing on the shoot-to-kill incidents in Northern Ireland, Amnesty International stated that "the United Kingdom's handling of major human rights issues has seriously undermined confidence in the country's legal standards. Some of those standards in fact clearly fall short of international standards."

During that hearing we heard tragic testimony from another victim of justice in Northern Ireland, Margaret Carraher, whose husband was killed by police in 1990. Only recently were any charges at all brought against those involved in the killing.

Additionally, a similar hearing held 2 years ago by the human rights caucus concerning the Birmingham Six was enormously successful. I was particularly pleased that the six men

were released with their convictions overturned.

It is my hope that our special order tonight will give the Immigration and Naturalization Service, as well at the FBI, cause to reconsider their actions in the Gildernew case, and further to refrain from such acts in the future.

Once again, I would like to take this opportunity to thank the gentleman from New York for reserving time for this important debate.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in showing congressional support for Francis Gildernew, who is now confronting unjust deportation hearings. I join my colleagues in this action with the understanding that our words will be presented in court as part of the defense of Mr. Gildernew.

This is not the first time my colleagues and I have had to come to the floor to protest the unwise intervention of foreign policy considerations in our judicial system. We took to the floor to protest the treatment of Sean Mackin, who was facing deportation to certain death. In the end, an immigration judge finally ruled in his favor and he and his family are now continuing their lives in New York. We also repeatedly gave our support to Joe Doherty, who now languishes in a British jail after several United States court rulings in his favor were overturned by our own Justice Department.

Now, we take to the floor on behalf of another individual, whose only crime seems to have been his work for peace and justice in Ireland. Francis Gildernew came to our country in 1984, when he married an American citizen and opened a business in New York. His life was abruptly disrupted on April 19, 1992, when armed FBI and INS agents stormed his house and arrested him. They charged that he had lied on his green card application, that he had claimed never to have been convicted of a crime in his home country.

Francis Gildernew was convicted of a crime in Ireland, but that conviction stemmed from a confession extracted after a week of brutal torture. That confession was in fact a prepared text that he was forced to sign by the same police force that has admitted to extracting false confessions during another case, the case of the Birmingham Six. We cannot allow this mockery of justice to unfairly force Mr. Gildernew to leave his new life behind.

Francis Gildernew's life would be placed in grave jeopardy if he is forced to return to Ireland. He has received the same death threats as others who have fallen at the hands of the ultra-nationalist death squads. There should be no doubt about it. Deporting Mr. Gildernew amounts to signing his death warrant.

There is no doubt that these entire deportation proceedings are politically motivated. Mr. Gildernew is facing deportation because of the active role he has played in recent efforts to win passage of the MacBride principles in New York State. The MacBride principles, which many of us support at the Federal level, would embarrass the British Government because they would have to admit that a high level of discrimination in Northern Ireland does indeed exist. Rather than let that happen, that administration is trying to silence people like Francis Gildernew, by harassing him, by taking away permits needed to continue his business, and by trying to deport him.

I thank my colleague, Congressman FISH, and the other Members who have joined us today. It is my sincere hope that our words will ensure that justice prevails and that the harassment of Mr. Gildernew will come to an end.

Mr. KENNEDY. Mr. Speaker. I would like to thank my colleague, Mr. FISH for organizing this special order on behalf of Francis Gildernew today.

Mr. Speaker, Mr. Gildernew is the latest example of the administration's flawed policy toward Northern Ireland. Time and time again, the administration has ignored the plight of, and discrimination against, Catholics living in Northern Ireland. Time and time again, the administration has ignored the civil rights and human rights violations committed against Catholics living in Northern Ireland. We see it in the way the administration gives little, if any, priority in its foreign policy agenda to solving the conflict in Northern Ireland. We saw it with the deportation of Joseph Doherty, and we are seeing it now with the attempt to deport Francis Gildernew from the United States on highly questionable grounds.

In April, Mr. Gildernew was arrested by FBI and INS agents for allegedly committing fraud by not disclosing a supposed conviction in Northern Ireland on his green card application. Mr. Speaker, after being tortured for 6 days in 1976, Mr. Gildernew signed a prepared confession stating that he planted a land mine near the hamlet of Benburb and was a member of the IRA. When filling out his green card application to this country, as far as he was concerned, he was innocent of the fraudulent charges a Diplock court convicted him of in a hostile environment on the basis of the forced confession.

Mr. Gildernew is a native of County Tyrone. His family's struggle against unfair housing regulations ignited the civil rights campaign in Northern Ireland. Ever since then, the Gildernew family had been targeted by Loyalists forces in Northern Ireland. Before his crime in 1976, Francis Gildernew had been arrested and held without charge on at least 10 different occasions.

Mr. Speaker, this latest attack on Mr. Gildernew clearly shows that he is being targeted for his continued fight for civil rights in his homeland. After his release from Long Kesh Prison where he served 8 years of a 12-year sentence, Mr. Gildernew moved to this country out of fear of his life. Since arriving here, Mr. Gildernew began a family and has operated a successful business in New York State. He has continued to speak out against the systematic and unjust treatment of Catholics in Northern Ireland. Now it is widely believed that he is coming under fire from this administration for exercising his constitutionally protected right of free speech for trying to win passage of the MacBride principles in New York.

Mr. Speaker, the administration cannot allow its special relationship with the British Government to bias its responses to issues dealing with Northern Ireland. Instead of taking sides, the administration should act as impartial mediators in trying to find a solution to the conflict. Instead of ignoring the gross injustices in Northern Ireland, the administration must speak out against them.

Mr. Speaker, I urge the Bush administration to stop the deportation proceedings against Francis Gildernew. If deported, he will undoubtedly be targeted for reprisals by Loyalist forces just as Liam Ryan, a naturalized American citizen and 20-year resident of New York, was assassinated by pro-British loyalists in 1989, upon his return to Northern Ireland. We must not allow this to happen. I call on the Bush administration to act fairly and justly—stop the deportation proceedings against Francis Gildernew.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that I be permitted to precede the gentleman from Georgia [Mr. GINGRICH] in the order of special orders tonight, and then to allow him to follow immediately after me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONGRESS MUST GET ITS ACT TOGETHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, much has been said and much has been written in recent days and weeks about the anger of the American people in regard to what they see going on in the country and the inability of our political system to respond to the problems that they see in their lives, and they see across this country, and across the world. Indeed, Mr. Speaker, we do live in revolutionary times where the lives of people are changing enormously almost every day, where they have real reason to be concerned about the future for themselves and for their children, where massive changes are taking place politically that we have seen in places like what was formerly the Soviet Union and what is today a series of independent states, where the economic changes are enormous, where we see a change from a national economy to a global economy, where we see a change into some kind of a postindustrial era where wealth will be created in a different way than it has been created throughout the 20th century. They see a technological revolution in which machines of infinite capacity are becoming a major part of our lives and where machines have really become intelligent parts of our economic structure. And they see a change in the cultural life, a revolution in our cultural lives, that is sweeping into their families that affects their communities, affects their neighborhoods and, ultimately, affects the world.

Mr. Speaker, all of those changes are impacting every day on the lives of the American people, and yet what they see in Government too often is an inability to respond. It is in many ways

an inability even to recognize that there are changes taking place, and, therefore, people become discouraged with what they see and hear in Government.

What they are particularly concerned about is that they think Government is not only not doing the right things; in many cases they think Government is doing all of the wrong things, and one of the things that I find people angriest about is the fact that the Federal debt is increasing at a massive rate and that the Federal deficits that add to that debt are continuing to increase at almost an uncontrollable pace.

Mr. Speaker, American people do not understand why Congress cannot get its act together. They do not understand why the President cannot do more to end the Federal debt and deficit because they know that it is beginning to impact on the lives of themselves and their children. They know intuitively that if we begin to add up all those huge figures that are in the national debt that it comes to some $16,000 per person, or $64,000 for every family of four in the country.

□ 2200

They realize that if they themselves accumulate $64,000 in debt in their name, that is a big burden for them to carry. They know that there is something wrong with a Government that is accumulating it in their name and then trying to tell them that somehow it is not something to be concerned about.

They also recognize that the deficit each year is impacting upon themselves and their families; that for every man, woman, and children in the country, that the deficit this year will amount to something on the order of $1,200. This means that for a family of four, we will have $4,800 in deficit for every taxpayer.

Many taxpayers do not pay $4,800 in total taxes in a year, so virtually everything that they are paying into the Federal Government is immediately being thrown into a deficit package of some sort.

That is beginning to make people very angry, and they are very angry with a Congress that refuses to deal with it. They are angry at a President that they do not think has done enough in their view to deal with this. They would like to see Congress doing more and they would like to see the Government as a whole doing more.

What they see too often is that Congress is doing very little. We argue about balanced budget amendments to the Constitution, but the fact is we never pass one. We argue about spending bills, but the fact is the spending goes up, not down.

We often do real harm in what happens in the House of Representatives and in the Senate because we not only pass spending bills that are wildly out of control when you look at the whole pattern of debt and deficit, but they contain massive amounts of waste that are then reported to the American people, and they certainly contain a lot of political pork, in other words, money which is spent to feather the nests of Members of Congress, hopefully to help them get elected.

This is an unacceptable situation at a time when debt amounts to $64,000 for every family of four and where deficits are $4,800 for every family of four. They would like to see something done.

Well, I think what we need to do is look beyond the kind of typical rhetoric and typical measures that have come before Congress and have been debated. In revolutionary times you need some revolutionary solutions to the problems that we face.

I believe the time has come to involve the American people directly in solving some of the problems that are before us. I believe the American people are prepared to deal with the debt problem and deal with the deficit problem if they are given a chance to do so. I believe that they have lost confidence in the Congress to act, but they are prepared to act on their own, and I think it is time that we give them the opportunity.

A few weeks ago colleagues of mine and I put in a bill called the Fundamental Competitiveness Act of 1992. That bill was designed to do a number of things, most of which were aimed at trying to give our businesses the clout they need in order to compete in the world economy. It is a good bill. It has attracted about 40 or 50 cosponsors at the present time.

But there is one provision of that bill that I think is rather unique, and it is this thing I want to discuss tonight, because it is a revolutionary concept to deal with debt and deficit.

In fact, I took that section out of the bill and introduced it as a separate piece of legislation today because I think it needs to be focused upon as a separate item for consideration by the Congress, and hopefully the American people.

That particular portion is known as the Debt Reduction Act of 1992. It deals not just with deficits, but deals with debt. It deals with the almost $4 trillion in debt that has been accumulated on behalf of the American people by this Government. It says that we need to begin to reduce the debt.

It is not enough anymore simply to talk about reducing deficits and getting to a balanced budget. We have to have a plan to deal with the debt because the debt is beginning to eat us alive. We will spend nearly $300 billion this year doing nothing but paying interest on the debt. That is more money than we spend for defense, it is more money than we spend for almost any other category of spending in the Federal Government. It is vastly too much money.

The problem is that we cannot even deal with the deficits in Congress, let alone the debt.

So here is the proposal. The proposal on how to do the Debt Reduction Act of 1992 is this:

Under the Debt Reduction Act of 1992 every American taxpayer when they filled out their 1040 form each year would be given the option of allocating up to 10 percent of the money that they were paying in taxes to buy down the permanent national debt. The money would be put into a trust fund and the trust fund would be used only for the purpose of buying down the national debt.

This would not be money to just buy down deficit, it would actually buy down the amount of debt of the Federal Government.

Now, it is not quite that simple, however, because the problem is that if you are buying down the debt on one end and just spending it away on the other you do not get anywhere. So the other part of the Debt Reduction Act of 1992 is that for every dollar the American people designate for debt reduction, it would automatically be reduced from spending at the other end of the equation. So that in one fell swoop the American people on their own 1040 form would have the opportunity to reduce both the debt by buying it down and reduce the deficit by automatic spending cuts across the board on all Federal programs except Social Security and interest payments, but virtually all Federal programs, including most of the entitlements, and we would begin to get real reductions in spending.

Now, I do not expect you to take my word for it. What I did was have the Congressional Budget Office make a run on this. We assumed that the program would work optimally. We assumed that everybody who is filling out their tax form would take their 10 percent.

If you assume that as a premise, this is the plan which balances the budget in 5 years. In a 5-year period of time you have reduced spending enough while you are buying down debt to balance the budget in that 5-year period.

Not only that, if you look at it over a 10-year period, by the end of 10 years, based upon the static economic models that we use to do all of these calculations in the Congress, at the end of a 10-year period you have a $1 trillion surplus in the operating account of the Federal Government.

Now, believe me, I do not believe we will ever have a trillion dollar surplus. As soon as you balance the budget, you have some money left over, it is going to get spent for other kinds of items. But I simply point that out to say that under the static economic analysis that we use in the Congress, this program shows that you not only end up balancing the budget, but you actually

end up accumulating surpluses in the outyears.

Beyond that, the analysis also shows that you begin to bring down the permanent national debt. What I asked the CBO to do was look at it for a 10-year period. That is what they did. I also then asked the Republican Study Committee staff, the experts and economists there, to look at this matter over a period of a little longer, so that we would get some idea of how the debt would come down.

In 12 years two-thirds of the permanent national debt is eliminated under this plan. Again, that is a plan working optimally. That is with the idea that everybody would participate.

But the idea here is that you can in fact reduce debt, you can reduce deficit, and you can bring the budget into balance and find a way to have the American people involved in the whole process.

I think that is the unique aspect here, the American people would make this determination. It would not be the easiest of choices. Obviously it would be an easy choice for people to say, "OK, I want to do something about debt and I am going to check this off," if you did not have the spending cuts at the other side. But everybody who checks off will have to know that when they are buying down the debt, they are also going to cause a spending cut in many programs, most programs, in fact, some of which would affect them directly.

The cuts would not be minor. Some of the cuts would probably be in the range of 4 to 5 percent every year that the debt reduction program was working at the optimal level.

But I will tell you that when I talk to businessmen across the country who are faced with these revolutionary times, 4 and 5 percent reductions in their budgets are almost a typical means of operating. They are having to do that in order to become more productive and in order to become more competitive.

So this is not something which is not going on in the country. In this country, in every community, in almost every neighborhood, there are businesses that are making that level of cut every year. If the American people are determined that their Government do what is happening across the country, this is a way to get it done, with the American people making the original choice and with the budget responding as the choice is made.

So this is an approach. It has been tested by CBO, it has been looked at by the Republican Study Committee economists. It has been talked about with a number of audiences. I must admit that I am finding a good deal of excitement about it. I have had a number of people who have come to me and said finally someone is talking about what is really important, and that is the debt.

□ 2210

Very few politicians have had the courage to stand up and talk about debt and what we are really worried about out here is debt. Sure, we want to concentrate on deficits because they are adding to the debt. But the bottom line is what we are really concerned about is the fact that we have added all this debt onto the backs of ourselves and our children and our grandchildren.

If you really give us an opportunity to do something about debt, we will take that opportunity. Congress can, under the Debt Reduction Act of 1992, begin that process, give people the simple choice on their tax form of buying down the permanent national debt, give them the chance to do so in the context that it will also cut spending.

Let the American people become a part of the process. If Congress cannot do the job because we are so tied to pork and perks, let the American people become a part of the equation.

If we cannot balance budgets here by passing constitutional amendments, let the American people into the process. If we cannot reduce the spending bills, let the American people into the equation.

And then our job becomes one of basically trying to find the ways in which you operate within the more limited funds that the American people are designating. Surely we can do that much. Surely Congress has the capability, once the funds are limited, to find ways to make programs work.

The fact is, what we can do is, we can eliminate whole programs that do not make any sense anymore, and we would, if we really had to make those kinds of tough choices.

The fact is that we can cut out a lot of wasteful spending in a lot of agencies that now go on forever spending money that we do not have. We would do that if we really had to face tough choices.

It is possible to do these things if, in fact, we are given the mandate. It appears to me that the only mandate that Congress is going to listen to is a mandate from the people.

The Debt Reduction Act of 1992 provides that kind of an opportunity. It says, buy down the debt and cut spending. The two working together balance the budget, reduce the permanent national debt by two-thirds in 12 years, and give America an opportunity to move into the global economy in a strengthened position.

In revolutionary times, we need revolutionary solutions. The idea behind the Debt Reduction Act is indeed revolutionary. It is a brandnew idea. Nobody has ever tried it before.

But it appears to me as though it would be something that would work because the enthusiasm of the American public for this kind of an idea, at least insofar as I have been able to test it thus far, is such that giving them the opportunity will produce real results.

So, Mr. Speaker, I would hope that as we wind down this session of Congress, we might take a look at some real changes, something that really would make a difference in the debt and deficit situation.

I would urge Congress to take a look and perhaps pass in the next few weeks the Debt Reduction Act of 1992.

THE CHOICE BETWEEN DEMOCRATS AND REPUBLICANS

The SPEAKER pro tempore (Mr. HUTTO). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak not for that length of time, I do not think, but about the 1992 election and the notion that what the American people want to do is vote about our future, our children's future and our country's future.

The American people know that elections in the end are about the future. They are about where is the country going, what is going to happen to your job, what is going to happen to your take-home pay, what is going to happen to your opportunities and to your family's opportunities, and under what circumstances are you going to be living, what kind of a neighborhood will you be in, what will the rules of the game be by which your Government decides whether or not you have a chance to go out and find work or whether or not you can create a small business.

And I want to suggest that this may become, in September and October, a very different principle of campaign than any we have seen in a long time. Right now the news media is talking a great deal about negative campaigning and politicians are talking about negative campaigning, and there is a pretty good amount of attacking each other going on. But I think, frankly, we are going to discover pretty quickly that that is not the most effective way for the American people to make their choice about the future, that we do not need a campaign that focuses on negatives and attacks. What we need is a clear campaign that contrasts the difference between the two parties, that contrasts the difference between the values, the principles, and the policies represented by the two parties, and that allows the American people to analyze those values, to analyze those policies, to look at those commitments, and then to decide whether or not the future, not the future of politicians, not the future of Republicans, not the future of Democrats, but the future for all Americans, the future for the individual voter, for that voter's family, for their children, for their families' community, whether or not

that future will be better with the victory of the Republican team or the Democratic team.

I want to suggest from my side of the aisle, and I would hope over the next few weeks, that we could develop an opportunity to debate this in a positive way, to really have an exchange of ideas, to have a discussion about facts, to talk openly between Democrats and Republicans. I would suggest that when you consider the key facts of this campaign, that I believe that you will decide to vote for the Republican ticket because it best represents your values, principles, and hopes.

I think there are 5 big facts that clearly define the choice for 1992. Fact one, the American people's values and principles are best represented by Republicans and are undermined by liberal Democrats. Fact two, if we are to get back on the right track of prosperity, safety, family, learning, and health, America needs the reforms the Republican ticket is committed to implement.

Fact three, the block everything Democratic Congress has consistently stopped the reforms the American people want. Fact four, America cannot afford the Democratic ticket. We cannot afford their taxes, their values, and their commitments to their interest groups. And fact five, only by voting on November 3 can we end 38 years of Democratic control of the Congress and ensure the election of a Republican team committed to implementing our values, our principles, and our reforms.

Let me go back and start. The American people's values and principles are best represented by Republicans and are undermined by liberal Democrats. Let us take some examples.

The balanced budget amendment, supported by about two-thirds of all Americans, opposed by about 17 percent. Almost everybody who has paid attention knows the deficit is a huge problem. The debt is a big problem, that interest on the debt is mounting up.

The head of the Democratic ticket says, in the Boston Globe on June 12, that he opposed the balanced budget amendment. The head of the Democratic ticket says, in June in the New York Times, June 11, the balanced budget proposal, "termed harmful." And the Democratic ticket, the Democratic candidate said that he would "oppose a balanced budget amendment proposal that is now before Congress because it would place too many restrictions on government spending." That is from the New York Times, June 11, "too many restrictions on government spending."

There is a clear difference in values. The Republican team believes that at a one trillion, five hundred billion dollars in the Federal budget, maybe we need a few restrictions on Government spending.

The Democratic ticket's leader said that a "balanced budget amendment to the Constitution would have too many restrictions."

By the way, as a second example of the difference in the two tickets, the Democratic ticket has produced a $150 billion tax increase. A $150 billion tax increase, I am told, that is larger than either Walter Mondale's proposed tax increase or Michael Dukakis' proposed tax increase.

□ 2220

A $150 billion tax increase, according to the one study, would lead to 1,300,000 additional workers being laid off, would put us right back into a recession, and would probably push the unemployment rate to close to 10 percent.

That is the Democratic tax increase, for a budget which as $1 trillion 500 billion, we are told by the Democratic candidate for President, should not be balanced by a constitutional amendment because "it would place too many restrictions on government spending."

What kind of taxes might be increased? It depends on where we go for our information. We took the Democratic vice presidential candidate's new book and we looked at what the vice presidential candidate of the Democrats wrote, on the grounds that he should be allowed to be quoted directly from his own words in his own book.

We turned to page 349 to see what kind of taxes he might increase, and here is what he said:

> Production of gasoline, heating oil, and other oil-based fuels, coal, natural gas, and electricity generated from fossil fuels would trigger incremental payments of the CO2 tax, according to the carbon content of the fuels produced.

This is his very first proposal under what he calls "a global Marshall Plan." He says:

> Accordingly, I propose, one, that we create an environmental security trust fund with payments into the fund based on the amount of CO2 put in the atmosphere.

Then he goes on, as I said, to talk about production of gasoline, heating oil, and other oil-based fuels, coal, natural gas, and electricity generated from fossil fuels.

That means one Democratic definition of a millionaire might be a person who drove a car or a motorcycle or a lawnmower, heated their house with heating oil, had air conditioning or heat generated by electricity, or used the electric light, used natural gas in any form, had a coal furnace; a pretty wide range of people to raise taxes on.

Of course, we would not get the entire $150 billion in taxes out of that particular idea, but he suggests later that they would reduce the amount of taxes paid on incomes and payrolls in the same year. I will let the Members decide how likely the Democratic Congress is to give money back once they have gotten it.

The point is, the Democratic ticket is on record favoring an aggregate increase of $150 billion a year. If a person is in rural America or suburban America or anywhere except the downtown central city, if they drive to work, if they drive for vacations, if they drive for a living, they are talking about a tax increase on gasoline, diesel fuel, virtually anything which generates carbon dioxide, CO_2.

I would suggest to the Members that if they go out to the average American and say, "How important is your car to you? How important is it to be able to buy gasoline?" They would find that 70 to 75 percent of the American people would oppose a gasoline tax increase. That is why, as I said, that the first big fact is that the American people's values and principles are best represented by Republicans and undermined by liberal Democrats, I think we have clear, specific examples.

The other half of that, of course, is the example I started with, the balanced budget amendment to the Constitution. If every Democrat who had cosponsored that balanced budget amendment had voted for it, that is, the people who put their name on the bill, if they had come to the floor and voted the way they wrote their name down on the bill, it would have passed the House.

However, the Democratic leadership, supported by the Democratic presidential candidate, opposed the constitutional amendment to a balanced budget, which, as I said earlier, is about almost a 4 to 1 issue in which the American people favor the constitutional amendment that the Democrats opposed.

Let me carry it a step further and suggest to the Members that most Americans believe that we certainly have enough foreign aid. Many Americans believe we have too much foreign aid. I get a lot more letters at home in Georgia from people who are angry about foreign aid. I get relatively few letters saying, "Please send more of our money overseas."

However, if we look on page 304 of the Democratic Vice-Presidential candidate's new book, we will find he talks about the size of the Marshall plan, and what expenditures we would have today if we had the same size foreign aid program.

He says, "A similar percentage today would be almost $100 billion a year." That is almost 7 times, according to his figures, the size of the current foreign aid program.

He suggests on page 305,

> Proposals which are today considered too bold to be politically feasible will soon be derided as woefully inadequate to the task at hand, yet, while public acceptance of the magnitude of the threat is indeed curving upward and will eventually rise almost vertically as awareness of the awful truth suddenly makes the search for remedies an all-consuming passion, it is just as important to

recognize that at the present time we are still in a period when the curve is just starting to bend. Ironically, at this stage the maximum that is politically feasible still falls short of the minimum that is truly effective.

What is he saying here? He is saying on page 304 and 305 that we ought to dramatically increase our foreign aid program; that there are dictatorships all over the Third World that need American money; that he in effect would bribe them into doing good things for their environment. These are dictatorships that often do pretty bad things to human beings in their country. He is saying that he would transfer wealth from the industrial nations. He suggests $100 billion as the number he puts in his book. That would be a 700 percent, almost 700 percent increase in foreign aid spending.

That is the Vice-Presidential candidate who has figured out a way to spend an additional $100 billion. As I said, they talked about a $150 billion tax increase. That leaves $50 billion left for America.

The Democratic presidential candidate has already promised that to the big cities. He went to a meeting of the Democratic mayors, the big city mayors who have so thoroughly mismanaged their big cities, and they were asking for $35 billion. In what was one of the most amazing examples of pandering, he actually offered them $15 billion more than they asked for, or $50 billion, when they were only asking for $35 billion.

Those other Members who have over the months watched the efforts that many of us have made to get across just how badly managed the Democratic big city machines are will remember references to the Reader's Digest article, "How the Unions Stole the Big Apple," and the story in the January Reader's Digest which tells about the $57,000 a year public school janitor in New York City who is required by his union contract to mop the school floor 3 times a year; that is, $19,000 per mopping.

This is not one of those made-up stories. Reader's Digest quotes the name of the school, the name of the janitor, the name of the principal. They quote the principal, who points out that the janitor is required to mop the cafeteria once a week but they have 5 meals a day, so there are 25 meals in the cafeteria in between each mopping, and the principal goes on to state that he has students who study around the filth.

In this setting a reform-oriented candidate who is deeply committed to making sure the taxpayers' money was spent, somebody who was committed to a constitutional amendment to require a balanced budget, might say to the Mayor of New York that he has to reform his machine; that $29 billion a year in city spending by New York alone is enough money that they ought to be able to get the job done.

However, in fact, one of the first groups to endorse the Democratic ticket was the American Federation of State, County and Municipal Employees. That is one of the major unions of city employees, and their commitment was to get more money for the cities to promote more featherbedding, and to be in a position where the work rules can continue to be extraordinarily inefficient and extraordinarily ineffective.

I think if we were to say to the average American, would you be willing to have a $150 billion tax increase that might include gasoline, electricity, and heating fuel in order to have $100 billion in additional foreign aid for the Third World and $50 billion to go to the Democratic big city machines to prop up their bureaucracies and their welfare? Probably that position would be about a 7 to 10 percent support in the country, and probably somewhere between 70 and 80 percent of the American people would say that that is not a very good deal, that they do not want their taxes raised, and that in fact, all things considered, they would still support a balanced budget amendment to the Constitution in order to control spending.

Let me make the second point. If we are to get back on the right track of prosperity, safety, family, learning and health, America needs the reforms the Republican ticket is committed to implement. There are two parts to this. Part one is the past. For the past 4 years we House Republicans have been working with President Bush to bring a range of reforms to the floor of the House.

We have tried to pass the constitutional amendment to require a balanced budget. We have tried to pass the line item veto. We have tried to pass education reform. We have worked to pass health reform. We have worked to pass malpractice and liability reform on the trial lawyers, so we could lower the cost of litigation in America and lower the cost of health care and lower the cost of doing business.

We have tried on a number of occasions to pass a tax cut bill to encourage work and saving and investment to create jobs to help us get out of the recession.

□ 2230

We tried to pass a $5,000 tax credit for first-time home buyers to help them buy homes to get out of the recession. We have tried to pass a number of steps on reform, and in case after case after case the Democratic leadership, the block-everything-Democrats have stopped us from passing these reforms.

Our reaction has not been to quit. We in fact are developing a reform program that includes health reform. The bill has already been introduced and the President has already come up and endorsed it. It includes a welfare reform program. That is a bill that has already been introduced and that will require people to work, require people to study, and set a limit on how long they can stay on welfare so that you will never again have generations on welfare. It includes a program on education to break open the system and have the kind of experiments that we need in order to be able to have the America 2000 program, to encourage schools to find better ways to teach our children so we can compete in the world market.

We have item after item where the Republicans are committed to bringing these bills to the floor. Congressman BOB MICHEL, the Republican leader, has already pledged publicly that if he is elected Speaker, on the very first day he becomes Speaker we would cut the congressional committee staff by 50 percent, we would abolish four select committees, and we would pass a bill to apply to the Congress every law which applies to the rest of the country.

Now I think there are two sides to this. Side No. 1 is what I called fact 2, that we do need to have real reforms. Any reasonable person who watches the evening news in any big city knows from the level of violence, the level of drug addiction, the level of problems we are faced with that we need reforms. And any reasonable person knows if you look at the economy, if you talk to our friends and relatives, if you talk to local businesses that the economy is not strong enough, it is not growing enough, we are not creating jobs enough, and so we need reforms. Anyone who looks at the American schools in the context of the world market knows that we need reforms. And anyone who knows how expensive health care is, how difficult it is sometimes to get access to health care knows that we need reforms.

Again, all of that, the argument is not about whether or not we need reforms. The Republican Party and the Republicans in the House have been bringing in and introducing reform legislation. But fact No. 3 is that the block-everything Democratic Congress has consistently stopped the reforms the American people want.

You want to reform the habeas corpus laws so we can be tougher on murderers and drug dealers. The Democrats blocked you. You want to pass term limitations so that you can have some control over the Congress. Democrats have blocked it. You want to pass a rule to require that Members of Congress raise half of their money in the congressional district that they represent. The Democrats have blocked it.

I am not saying this to be partisan. I am saying that as a matter of fact, if people will go to their local library, pick up the CONGRESSIONAL RECORD or pick up the Congressional Quarterly, look at the record of the votes that

were cast and they will see that again and again and again it has been the block-everything Democratic Congress which has consistently stopped the reforms which most Americans want. And as I said earlier, maybe the best case, the best example is the balanced budget amendment to the Constitution which would have become law, been passed out of the House and gone to the Senate except that 12 Democrats were convinced by their leadership to vote against the very bill which they had cosponsored. So when I say block-everything Democratic Congress, it is because I believe I can make the case, and I will be glad in future evenings to defend the case that on issue after issue over the last 4 years, on vote after vote, the historic record is clear. The Republicans have been trying to pass a series of reforms on jobs, crime, drugs, education, welfare, health, and in a variety of other fields, and in case after case, day by day, vote by vote, it has been the block-everything Democratic Congress which has blocked those reforms.

Fact 4, America cannot afford the Democratic ticket. We cannot afford their taxes, their values and their commitments through interest groups.

Let us just take a couple of examples. How many Americans can afford a higher gasoline tax? Well, the Democratic ticket is proposing one. How many Americans can afford a tax on electricity? Well, the Democratic ticket is proposing one. How many Americans can afford a $150 billion tax increase on an already weak economy, a tax increase which would almost certainly kill, as one study indicated, 1,300,000 jobs. That is 1,300,000 additional Americans out of work. How many Americans can afford to take money out of their wallet and send it to the New York City bureaucracy? How many Americans can afford the kind of mess we currently have in our litigation system where malpractice threatens every single health professional, where liability litigation and other litigation threatens every business, and where we are diverting from working Americans to trial lawyers an amount of money which is ridiculous, and which makes us the country which has the most lawsuits, the country that spends the most on lawsuits and, in fact, by one study we spend four times as much money on lawsuits and the legal system as we spend on basic research.

Finally, the point I would make is that all of this is up to the voters, that what this campaign is about is not personality, it is not goodness, it is not pandering. What this campaign is about is not being negative in the sense of whispering and sneers about each other. What this campaign is about is America's future, our children's future and our own future. What this campaign is about is looking carefully at the two teams, recognizing that they are teams. Recognizing, for example, that while the Democrats did not want to put Congress on display in New York, it is a fact that the Democrats took control of the House when their presidential candidate was 7 years old, and the Democrats took control of the House when their vice presidential candidate was 6 years old. It is a fact that they have controlled the House ever since. Now, from first grade to the presidential nomination is a long time. That is how long the Democrats have been in charge of the House.

So, when you see a post office scandal, or a bank scandal, when you see the kind of stories you are seeing coming out about the House, remember that you are talking about 38 years of the Democrats running the House without a single break, without any disruption of their monopoly. When you look at who do the candidates speak to, what promises do they make, what are their commitments, what are their values, remember that these things have a real impact. It is very important to recognize that words have meaning, that in the long run policies have repercussions, that ignorance can be destructive, and especially in foreign policy, and that if the difference between Republican and Democratic words, policies and experiences become acted out, what will America be like in the first 3 months of 1993 if the Republicans are given control of the House and the Senate and the White House. What would we pass? And on the other side, what would a Democratic President working with a Democratic Congress pass?

The last time we had a Democratic President and a Democratic Congress, they ended up with 22-percent interest rates, 13-percent inflation. The unemployment rate ultimately reached almost 11 percent. And the whole system of the American economy and the structure of American society began to fall apart. We ended up in what was called malaise, and the country voted for dramatic change.

For 4 years President Bush has vetoed the bills which would have made the economy even sicker, the bills which would have transferred power even more to the lawyers, the bills which would have imposed quotas, the bills which would have imposed quotas, the bills which would have created even more difficulties in the American economy.

If instead of having that veto we have a President who campaigns promising the unions, the big city machines, the leftwing activists and the trial lawyers that this is their chance to get there, if instead of somebody who may have once signed one tax bill we have somebody who is eagerly promising us in advance that they will gleefully, cheerfully sign $150 billion in taxes, more than Walter Mondale, more than Michael Dukakis, that they are ready right now to get that pen out and sign that massive $150 billion tax increase, if instead of an effort to have a balanced budget amendment we have a ticket, the Democratic ticket which is already promising $50 billion to the big cities, and $150 billion potentially in foreign aid, then what will the American economy look like? And then if instead of having the Republicans nominating conservative judges, judges who believe in the Constitution, judges who are committed to relatively careful, cautious decisions we have a Democratic ticket in which TEDDY KENNEDY and Jesse Jackson and other liberals are the primary suggestors of who ought to be appointed, and go back and read what TEDDY KENNEDY, and HOWARD METZENBAUM, and other liberal Democrats said about the Reagan and the Bush judges at the nomination in the Senate, and ask yourself if these are the primary advisers of the Democratic ticket, then what kind of very, very leftwing judges are we going to get, and how is that going to change things?

□ 2240

Is it not likely in the first 90 days of Democratic Congress and a Democratic President that what we are going to see is a dramatic expansion of the Federal judiciary so that literally hundreds of prounion, proliberal, protrial lawyer attorneys can be appointed to brand new judgeships? In that setting, I believe the policy choices are very real and very clear.

I do not think we have to run a negative campaign. I think we have to run a campaign of contrast. I think we have to define the difference in policies, in values, in goals and commitments and in allies. I think we have to indicate that there is going to be a change.

The question is whether the change will be for the better or the change will be for the worse, and we have to ask the American people to look very carefully at what each team stands for, to look very carefully at what each team is promising to do, to look very carefully at who the various interest groups and allies and supporters of each team are, and then to decide who can do the best job for you and your family, for your children and your country, and I believe when you consider the key facts of this campaign, not the personalities, not the glibness, not the key facts of this campaign, I believe you will decide to vote for the Republican ticket, because it best represents your values, your principles, your hopes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legis-

lative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.
Mr. WALKER, for 60 minutes, today.
Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. PENNY to revise and extend their remarks and include extraneous material:)

Mr. BROWDER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. HOYER, for 60 minutes each day, today and on August 5, 6, and 7.
Ms. NORTON, for 60 minutes each day, today and on August 5.
Mr. HAYES of Illinois, for 60 minutes, on August 5.
Mr. OWENS of New York, for 60 minutes each day, on August 5, 6, 7, 10, 11, and 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. GEKAS in two instances.
Mr. WELDON.
Mr. GALLEGLY.
Mr. RINALDO.
Mr. SOLOMON.
Mr. GREEN of New York.
Mr. RHODES.
Mr. BOEHLERT.
Mr. LIGHTFOOT.
Mr. GUNDERSON.
Mr. SHUSTER in two instances.
Mr. GILMAN in two instances.
Mr. CLINGER.

(The following Members (at the request of Mr. PENNY) and to include extraneous matter:)

Mr. TORRICELLI.
Mr. ENGEL.
Mr. PANETTA.
Mr. RANGEL.
Mr. GEJDENSON.
Mr. CLEMENT.
Mr. ORTIZ.
Mr. TRAFICANT.
Mr. OBERSTAR.
Mr. DONNELLY.
Mr. MATSUI.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1569. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

S. 2087. An act to prohibit certain use of the terms "Visiting Nurse Association," "Visiting Nurse Service," "VNA", and "VNS"; to the Committee on the Judiciary.

S. 2624. An act to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of U.N. security guards to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; and

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, August 5, 1992, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the U.S. dollars utilized by them for official foreign travel during the second quarter of 1992, pursuant to Public Law 95-384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Dennis Eckart	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
John Orlando	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
Richard Frandsen	4/11	4/14	Italy		628.00						628.00
	4/14	4/16	Greece		609.00						609.00
	4/16	4/18	England		277.00						277.00
Commercial air fare							3,284.00				3,284.00
Cardiss Collins	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
David Schooler	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
Douglas Bennett	4/11	4/18	Korea		1,416.00						1,416.00
Commercial air fare							4,892.00				4,892.00
Committee total					8,790.00		24,528.00				33,818.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
P.A. Abbruzzese	4/2	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
	6/28	7/2	Russia		1,450.00						1,450.00
Commerical transportation							3,443.00				3,443.00
Hon B. Blaz	4/26	4/28	Philippines		546.00						546.00
Commerical transportation							487.00				487.00
N. Bloomer	5/14	5/18	Canada		972.00						972.00
Military transportation											
J.J. Brady	5/14	5/18	Canada		972.00						972.00
Military transportation											
M.J. Camp	5/4	5/8	Egypt		748.00						748.00
	5/8	5/10	Algeria		417.00						417.00
	5/10	5/11	Morocco		143.50						143.50
	5/11	5/15	Senegal		876.00						876.00
Commercial transportation							6,169.70				6,169.70
M. Dymally	6/9	6/10	Canada		98.00				25.00		123.00
Commercial transportation							447.00				447.00
	6/27	6/29	Senegal		717.00						717.00
	6/30	6/31	Mali		456.00						456.00
	7/1	7/3	Mauritania		150.00						150.00
	7/4	7/5	Senegal		478.00						478.00
Commerical transportation							5,265.90				5,265.90
M. Ennis	4/26	4/30	Latvia		[3]1,033.00						1,033.00
	4/30	5/1	Germany								
Commercial transportation							3,575.30				3,575.30
	5/14	5/18	Canada		972.00						972.00
Military transportation											
Hon. D. Fascell	4/3	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
S. Fletcher	5/30	6/12	Brazil		[3]3,245.00						3,245.00
Commercial transportation							1,293.00				1,293.00
M. Gueye	5/12	5/12	France								
	5/12	5/16	Senegal		920.00						920.00
	5/16	5/18	Mali		338.00						338.00
	5/18	5/19	Mauritania		210.00						210.00
	5/19	5/23	Ivory Coast		1,110.00						1,110.00
Commercial transportation							6,312.40				6,312.40
V. Johnson	4/19	4/21	Guatemala		233.00						233.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,498.00				1,498.00
G. Kapen	4/5	4/8	Portugal		540.00						540.00
Commercial transportation							2,294.00				2,294.00
D. Laufman	4/20	4/22	England		554.00						554.00
	4/22	4/25	Spain		[3]674.00						674.00
Commercial transportation							5,226.00				5,226.00
Hon. J. Leach	4/10	4/11	Austria		184.91						184.91
	4/11	4/13	Ukraine		523.09						523.09
	4/13	4/19	Russia		1,377.00						1,377.00
	4/19	4/19	Luthuania								
	4/19	4/20	Germany		65.00						65.00
Military transportation											
J. McCormick	4/20	4/21	Japan		474.00						474.00
	4/21	4/22	China		185.00						185.00
	4/23	4/25	Bangladesh		[3]628.10						628.10
	4/25	4/27	Thailand		396.00						396.00
	4/27	4/28	Indonesia		[3]229.00						229.00
	4/28	4/29	Malaysia		[3]301.00						301.00
	4/29	5/2	Singapore		377.00						377.00
Commercial transportation							6,876.00				6,876.00
M. Manatt	5/16	5/19	Bahamas		575.00						575.00
Commercial transportation							448.00				448.00
Hon. J. Miller	6/7	6/10	Chile		645.00						645.00
Commercial transportation							3,169.00				3,169.00
R. Nuccio	4/19	4/21	Guatemala		[3]224.00						224.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,498.00				1,498.00
R.S. Oliver	5/14	5/18	Canada		972.00						972.00
Military transportation											
	5/21	5/24	Hungary		621.00				163.62		784.62
Commercial transportation							3,479.40				3,479.40
B. Paolo	5/4	5/8	Egypt		748.00						748.00
	5/8	5/16	Algeria		1,000.00						1,000.00
Commercial transportation							5,717.00				5,717.00
M. Poloyac	5/14	5/18	Canada		972.00						972.00
Military transportation											
J. Roberts	5/14	5/18	Canada		972.00						972.00
Military transportation											
	6/28	7/2	Russia		1,450.00						1,450.00
Commercial transportation							3,443.00				3,443.00
D. Schlieker	5/14	5/18	Canada		972.00						972.00
Military transportation											
E. Schwartz	4/20	4/21	Japan		474.00						474.00
	4/21	4/22	China		185.00						185.00
	4/23	4/25	Bangladesh		[3]628.10						628.10
	4/25	4/27	Thailand		[3]396.00						396.00
	4/27	4/28	Indonesia		229.00						299.00
	4/28	4/29	Malaysia		[3]301.00						301.00
	4/29	5/2	Singapore		[3]377.00						377.00
Commercial transportation							6,876.00				6,876.00
Hon. R. Torricelli	4/19	4/21	Guatemala		233.00						233.00
	4/21	4/24	Mexico		573.00						573.00
Commercial transportation							1,458.00				1,458.00
J. Weber	4/3	4/5	Luxembourg		620.00						620.00
Military transportation											
	5/14	5/18	Canada		972.00						972.00
Military transportation											
P. Weir	4/20	4/24	Mexico		600.00						600.00
Commercial transportation							1,366.50				1,366.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Total, 2d quarter											112,192.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

DANTE B. FASCELL, Chairman, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jack Brooks	4/3	4/5	Luxembourg		620.00		[3]				620.00
Committee total					620.00						620.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

JACK BROOKS, Chairman, July 22, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Helen Delich Bentley	5/25	5/27	Yugoslavia		[3]		[4]				
Jill Brady	6/26	7/4	Scotland		[5] 1,450.00		[6] 3,518.00				4,968.00
Lieslie Dierauf	5/17	5/22	Hong Kong	11,710.40	1,512.00		[6] 2,900.00				4,412.00
James K. McCallum	5/18	5/26	Japan	370,573	2,844.00		[6] 2,798.00				5,642.00
Thomas O. Melius	6/2	6/10	Brazil	6.596.280,00	2,259.00		[6] 2,824.00				5,083.00
Charles O. Moore	6/2	6/10	Brazil	6.596.280,00	2,259.00		[6] 2,824.00				5,083.00
Rodney H. Moore	5/22	5/26	Japan	163,814	1,264.00		[6] 3,250.00				4,514.00
Committee total					11,588.00	18,114.00					29,702.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] No per diem requested.
[4] Transportation paid by traveler.
[5] Cash advance issued by U.S. Department of State prior to travel.
[6] Commercial airfare.

WALTER B. JONES, Chairman, July 24, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Barbara-Rose Collins	4/14	4/16	Senegal		690.00						690.00
	4/16	4/21	Cote d'Ivorie		1,052.00						1,052.00
	4/21	4/26	Ghana		2,609.25		[3] 4,136.00				6,745.35
Committee total					4,351.35		4,136.00				8,487.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Total commercial airfare.

ROBERT A. ROE, Chairman, July 23, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4061. A letter from the Department of the Air Force, transmitting notification that the performance of the C–17 full scale development [FSD] contract will continue for a period exceeding 10 days; to the Committee on Armed Services.

4062. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs for defense articles and services (Transmittal No. 92–33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4063. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Korea (Transmittal No. 17–92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

4064. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4065. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1997 resulting from passage of S. 1150, pursuant to Public Law

101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

4066. A letter from the Secretary of Labor, transmitting a report on activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4067. A letter from the Comptroller General of the United States, transmitting a copy of report entitled, "Thrift Resolutions; FSLIC 1988 and 1989 Assistance Agreement Costs Subject to Continuing Uncertainties"; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

4068. A letter from the President and CEO, Resolution Trust Corporation, transmitting the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section ("The 1988–89 FSLIC Assistance Agreements"); jointly, to the Committees on Banking, Finance and Urban Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5263. A bill to authorize the Secretary of Veterans Affairs to conduct a demonstration project to determine the cost-effectiveness of certain health-care authorities (Rept. 102–779, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4567. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; with an amendment (Rept. 102–780, Pt. 1). Ordered to be printed.

Ms. SLAUGHTER: Committee on Rules. House Resolution 537. Resolution providing for the consideration of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes (Rept. 102–781). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5237. A bill to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes; with an amendment (Rept. 102–782, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4906. A bill to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes; with an amendment (Rept. 102–783). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT:

H.R. 5756. A bill to protect reproductive rights; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. HAMILTON, and Mr. GILMAN):

H.R. 5757. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize appropriations for foreign assistance programs for fiscal year 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BOEHLERT:

H.R. 5758. A bill to prohibit the expenditure of Federal funds for the purchase of components for the superconducting super collider that are manufactured outside the United States unless U.S. firms were allowed to compete for the contract; to the Committee on Science, Space, and Technology.

By Mr. BROWN:

H.R. 5759. A bill to expand Federal efforts to develop technologies for applications of high-performance computing and high-speed networking, to provide for a coordinated Federal program to accelerate development and deployment of an advanced information infrastructure, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. DARDEN (for himself, Mr. BROWDER, Mr. JONES of Georgia, Mr. ERDREICH, Mr. CRAMER, Mr. TALLON, Mrs. LLOYD, Mr. THOMAS of Georgia, Mr. JENKINS, Mr. ROWLAND, Mr. RAY, and Mr. BARNARD):

H.R. 5760. A bill to express the sense of the Congress with respect to sports blackouts; to the Committee on Energy and Commerce.

By Mr. DELLUMS:

H.R. 5761. A bill to impose sanctions on South Africa; jointly, to the Committees on Ways and Means, Foreign Affairs, Public Works and Transportation, and Banking, Finance and Urban Affairs.

By Mr. HEFLEY:

H.R. 5762. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of such act to germicides; to the Committee on Energy and Commerce.

By Mr. HUCKABY (for himself and Mr. EMERSON):

H.R. 5763. A bill to provide equitable relief to producers of sugarcane sujbect to proportionate shares; to the Committee on Agriculture.

H.R. 5764: A bill to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts; to the Committee on Agriculture.

By Mr. IRELAND:

H.R. 5765. A bill to amend the Internal Revenue Code of 1986 to exempt from the tax on generation-skipping transfers certain transfers to grandchildren of siblings of the transferor; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 5766: A bill to require the promulgation of standards for the cleanup of radiologically contaminated sites; to the Committee on Energy and Commerce.

By Mr. LAUGHLIN:

H.R. 5767: A bill to authorize the foreign sale of certain U.S. flag tank vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. LIGHTFOOT:

H.R. 5768: A bill to establish a blue ribbon commission to eliminate duplicative and noncompetitive Federal regulations; to the Committee on Government Operations.

By Mr. McCRERY:

H.R. 5769: A bill to provide for the revitalization of small business concerns, promote job growth, and for other purposes; jointly, to the Committee on Energy and Commerce, Small Business, Banking, Finance and Urban Affairs, Ways and Means, the Judiciary, Education and Labor, Rules, and Government Operations.

By Mr. ROEMER (for himself and Mr. JOHNSON of South Dakota):

H.R. 5770. A bill to prohibit the use of U.S. Government aircraft for political or personal travel, to limit certain benefits for senior Government officers, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mr. SHAW (for himself and Mr. COYNE):

H.R. 5771. A bill to amend title XVIII of the Social Security Act to extend the period during which Medicare-dependent, small rural hospitals receive additional payments under the Medicare Program for the operating costs of inpatient hospital services, to revise the criteria for determining whether hospitals are eligible for such additional payments, and to provide additional payments under the Medicare Program to other Medicare-dependent hospitals; to the Committee on Ways and Means.

By Mr. SKEEN:

H.R. 5772. A bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the act are carried out, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WALKER:

H.R. 5773. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. RANGEL:

H.J. Res. 535. Joint resolution designating September 9, 1992, as "Haitian Freedom Day"; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. HALL of Ohio, Mr. EMERSON, Mr. WHEAT, Mr. DYMALLY, Mr. SOLARZ, Mr. LAGOMARSINO, Mr. WEISS, Mr. DORGAN of North Dakota, Mr. PENNY, Mr. HASTERT, Mr. MCNULTY, Mr. FALEOMAVAEGA, Mr. WOLF, Mr. BEREUTER, Mr. GILCHREST, Mr. MCHUGH, Mr. SMITH of New Jersey, and Mr. WOLPE):

H. Con. Res. 352. Concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security forces to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Affairs.

By Mrs. LOWEY of New York (for herself, Mr. SOLARZ, Mr. SMITH of Florida, Mr. YATES, Mr. BACCHUS, Mr. HORTON, Mr. LEHMAN of Florida, Mr. CONYERS, Mr. WOLPE, Mr. SWETT, Mr. MCNULTY, Ms. PELOSI, Mr. SCHEUER, Ms. MOLINARI, Mr. CHANDLER, Mrs. KENNELLY, Mr. LAGOMARSINO, Mr. KOPETSKI, and Mr. WAXMAN):

H. Res 538. Resolution commending the heroic individuals who acted to rescue Jews during the Holocaust and the Jewish Foundation for Christian Rescuers, which perpetuates the altruism and moral courage of such individuals; to the Committee on Foreign Affairs.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. ED-

WARDS of Oklahoma, Mr. WEBER, Mr. VANDER JAGT, Mr. SOLOMON, and Mr. GRADISON):

H. Res. 539. Resolution directing the Committee on Standards of Official Conduct to conduct an investigation regarding possible unauthorized disclosures of classified information in violation of Rules of the House of Representatives; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. IRELAND introduced a bill (H.R. 5774) for the relief of LeeAnn Bassett Helmick, Lynn Bassett Holland, and Louise Bassett Meyling; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 428: Mr. KASICH.
H.R. 629: Mr. MCCANDLESS.
H.R. 1025: Mr. GEREN of Texas.
H.R. 1536: Mr. YOUNG of Florida.
H.R. 1541: Mr. YOUNG of Florida.
H.R. 1886: Mr. WHEAT.
H.R. 2643: Mr. INHOFE.
H.R. 3221: Mr. IRELAND, Mr. BILBRAY, Mrs. LLOYD, and Mr. ALEXANDER.
H.R. 3462: Mr. SWETT and Mr. PAXON.
H.R. 3705: Mr. BOEHNER.
H.R. 4045: Mr. COLORADO.
H.R. 4094: Mr. SKEEN and Mr. WELDON.
H.R. 4204: Mr. FISH, Mr. COBLE, Mr. SPENCE, Mr. DARDEN, and Mr. NEAL of North Carolina.
H.R. 4224: Mr. INHOFE.
H.R. 4315: Mr. INHOFE.
H.R. 4353: Mr. JONTZ.
H.R. 4507: Mr. KILDEE, Mr. BILBRAY, Mr. ROE, Mr. SENSENBRENNER, and Mr. MCCOLLUM.
H.R. 4585: Mr. PRICE, Mr. HERTEL, Mrs. JOHNSON of Connecticut, Mr. MFUME, Mr. STARK, and Mr. ACKERMAN.
H.R. 4617: Mr. INHOFE.
H.R. 4618: Mr. INHOFE.
H.R. 4619: Mr. INHOFE.
H.R. 4620: Mr. INHOFE.
H.R. 4621: Mr. INHOFE.
H.R. 4622: Mr. INHOFE.
H.R. 4623: Mr. INHOFE.
H.R. 4625: Mr. INHOFE.
H.R. 4626: Mr. INHOFE.
H.R. 4627: Mr. INHOFE.
H.R. 4628: Mr. INHOFE.
H.R. 4629: Mr. INHOFE.
H.R. 4630: Mr. INHOFE.
H.R. 4631: Mr. INHOFE.
H.R. 4632: Mr. INHOFE.
H.R. 4633: Mr. INHOFE.
H.R. 4634: Mr. INHOFE.
H.R. 4635: Mr. INHOFE.
H.R. 4636: Mr. INHOFE.
H.R. 4637: Mr. INHOFE.
H.R. 4638: Mr. INHOFE.
H.R. 4639: Mr. INHOFE.
H.R. 4640: Mr. INHOFE.
H.R. 4641: Mr. INHOFE.
H.R. 4642: Mr. INHOFE.
H.R. 4643: Mr. INHOFE.
H.R. 4644: Mr. INHOFE.
H.R. 4645: Mr. INHOFE.
H.R. 4646: Mr. INHOFE.
H.R. 4647: Mr. INHOFE.
H.R. 4648: Mr. INHOFE.
H.R. 4649: Mr. INHOFE.
H.R. 4650: Mr. INHOFE.
H.R. 4651: Mr. INHOFE.
H.R. 4652: Mr. INHOFE.
H.R. 4653: Mr. INHOFE.
H.R. 4654: Mr. INHOFE.
H.R. 4655: Mr. INHOFE.
H.R. 4656: Mr. INHOFE.
H.R. 4657: Mr. INHOFE.
H.R. 4658: Mr. INHOFE.
H.R. 4659: Mr. INHOFE.
H.R. 4660: Mr. INHOFE.
H.R. 4661: Mr. INHOFE.
H.R. 4662: Mr. INHOFE.
H.R. 4663: Mr. INHOFE.
H.R. 4664: Mr. INHOFE.
H.R. 4665: Mr. INHOFE.
H.R. 4666: Mr. INHOFE.
H.R. 4667: Mr. INHOFE.
H.R. 4668: Mr. INHOFE.
H.R. 4669: Mr. INHOFE.
H.R. 4670: Mr. INHOFE.
H.R. 4671: Mr. INHOFE.
H.R. 4672: Mr. INHOFE.
H.R. 4673: Mr. INHOFE.
H.R. 4674: Mr. INHOFE.
H.R. 4675: Mr. INHOFE.
H.R. 4676: Mr. INHOFE.
H.R. 4678: Mr. INHOFE.
H.R. 4679: Mr. INHOFE.
H.R. 4680: Mr. INHOFE.
H.R. 4681: Mr. INHOFE.
H.R. 4682: Mr. INHOFE.
H.R. 4683: Mr. INHOFE.
H.R. 4684: Mr. INHOFE.
H.R. 4755: Mr. MCEWEN, Mr. HOBSON, and Mr. BACHUS.
H.R. 4797: Mr. SCHIFF.
H.R. 4851: Mr. INHOFE.
H.R. 4852: Mr. INHOFE.
H.R. 4853: Mr. INHOFE.
H.R. 4854: Mr. INHOFE.
H.R. 4855: Mr. INHOFE.
H.R. 4856: Mr. INHOFE.
H.R. 4857: Mr. INHOFE.
H.R. 4858: Mr. INHOFE.
H.R. 4859: Mr. INHOFE.
H.R. 4860: Mr. INHOFE.
H.R. 4861: Mr. INHOFE.
H.R. 4862: Mr. INHOFE.
H.R. 4863: Mr. INHOFE.
H.R. 4864: Mr. INHOFE.
H.R. 4865: Mr. INHOFE.
H.R. 4866: Mr. INHOFE.
H.R. 4867: Mr. INHOFE.
H.R. 4868: Mr. INHOFE.
H.R. 4869: Mr. INHOFE.
H.R. 4870: Mr. INHOFE.
H.R. 4871: Mr. INHOFE.
H.R. 4872: Mr. INHOFE.
H.R. 4873: Mr. INHOFE.
H.R. 4874: Mr. INHOFE.
H.R. 4875: Mr. INHOFE.
H.R. 4876: Mr. INHOFE.
H.R. 4877: Mr. INHOFE.
H.R. 4878: Mr. INHOFE.
H.R. 4924: Mr. JACOBS.
H.R. 4962: Mr. PAYNE of Virginia and Mr. LIGHTFOOT.
H.R. 4963: Mr. PAYNE of Virginia and Mrs. UNSOELD.
H.R. 5216: Mr. SCHAEFER.
H.R. 5238: Mr. BLACKWELL.
H.R. 5240: Mr. OLVER.
H.R. 5424: Mr. LANTOS.
H.R. 5456: Mr. REED.
H.R. 5478: Mr. ANDREWS of Texas, Mr. VALENTINE, Mr. ROWLAND, Mr. BREWSTER, Mr. RAHALL, and Mr. SKEEN.
H.R. 5494: Mr. ATKINS.
H.R. 5509: Mr. ZELIFF and Mr. GALLEGLY.
H.R. 5531: Mrs. COLLINS of Illinois, Mr. ACKERMAN, Mr. TOWNS, and Ms. PELOSI.
H.R. 5542: Mr. SKEEN and Mr. GEREN of Texas.
H.R. 5600: Mr. HATCHER, Mr. MARTINEZ, Mr. PENNY, Mr. ATKINS, and Mr. PETERSON of Minnesota.
H.R. 5612: Mr. JACOBS and Mr. ATKINS.
H.R. 5626: Mr. BATEMAN and Mr. SHARP.
H.R. 5681: Mr. TRAFICANT, Mr. RAHALL, Mrs. SCHROEDER, and Mr. ACKERMAN.
H.R. 5682: Mr. IRELAND and Mr. LEWIS of Florida.
H.R. 5719: Mr. HAYES of Louisiana, Mr. JEFFERSON, and Mr. TAUZIN.
H.R. 5733: Mr. HERGER, Mr. DORNAN of California, Mr. SOLOMON, and Mr. GEREN of Texas.
H.R. 5745: Mr. BILIRAKIS, Mr. RAVENEL, Mr. HANCOCK, Mr. NICHOLS, and Mrs. COLLINS of Illinois.
H.J. Res. 422: Mr. BLILEY, Mr. DEFAZIO, Mrs. VUCANOVICH, Mr. DELLUMS, Mr. MURPHY, Mr. BURTON of Indiana, Mr. LAROCCO, Mr. MCCLOSKEY, and Mr. MONTGOMERY.
H.J. Res. 483: Mr. YOUNG of Florida.
H.J. Res. 500: Mr. BALLENGER, Mr. EMERSON, Mr. FASCELL, Mr. HAYES of Illinois, Mr. HOYER, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. LANTOS, Mr. MINETA, Mr. MONTGOMERY, Ms. OAKAR, Mr. OLVER, Mr. PALLONE, Mr. REED, Mr. SMITH of Florida, Mr. TALLON, and Mr. THOMAS of Georgia.
H.J. Res. 523: Mr. ENGEL, Mr. PALLONE, and Mr. CAMP.
H. Con. Res. 223: Mr. AUCOIN, Mrs. KENNELLY, Mr. KOPETSKI, and Mr. TORRICELLI.
H. Con. Res. 301: Mr. BEREUTER, Ms. MOLINARI, and Mr. SANTORUM.
H. Con. Res. 344: Mr. SKAGGS, Mr. FOGLIETTA, Mr. GUARINI, Ms. SNOWE, Mr. MATSUI, Mr. OWENS of Utah, Mr. ESPY, Mr. SHAYS, Ms. NORTON, Mr. ANDREWS of Maine, Mr. WHEAT, Mr. PORTER, Ms. KAPTUR, Mr. CARDIN, and Mr. JOHNSTON of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. RAVENEL.